



**Annual
Report
FSG 2012**

Discrimination and the Roma Community

Presentation of 148 cases of
discrimination

The negative social image
of the Roma community
portrayed in the media

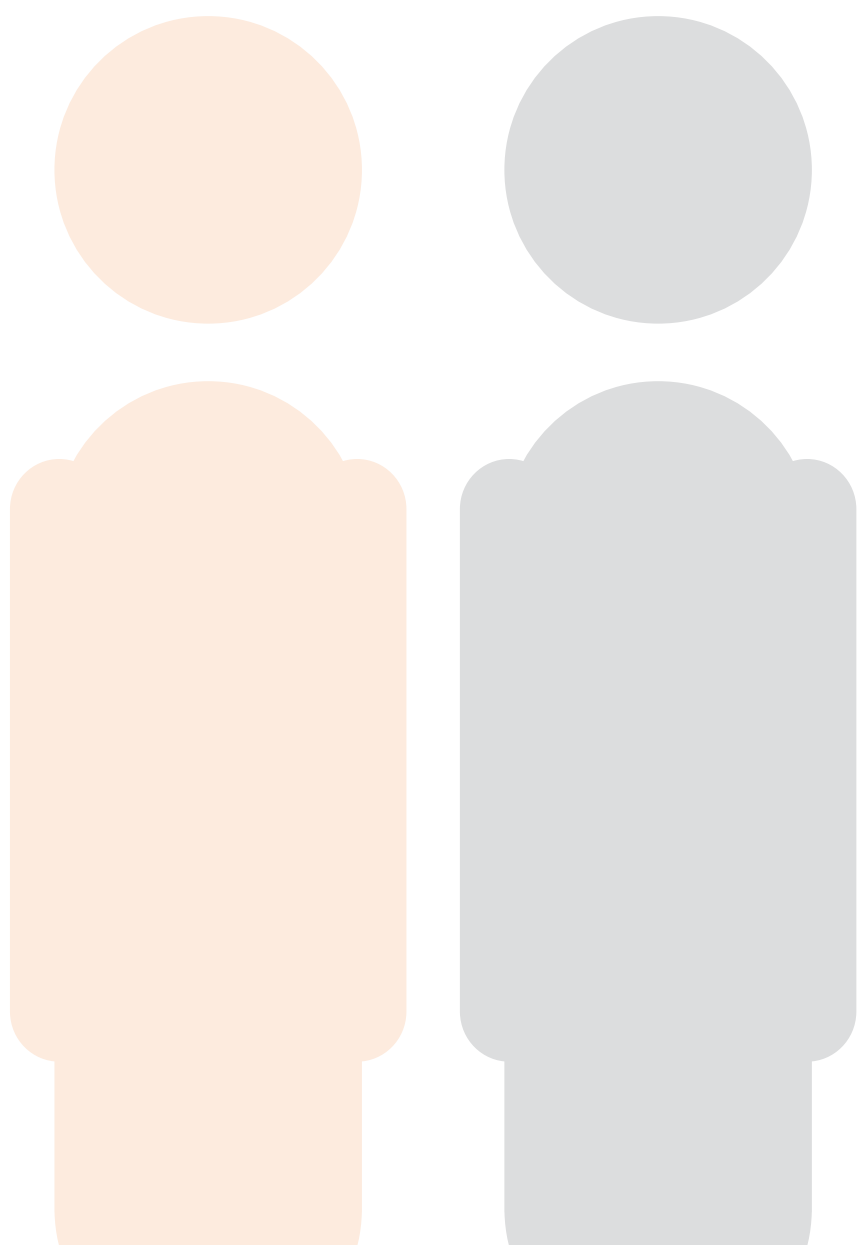
European Court of Human
Rights case law

Recommendations
by European bodies
to foster equal treatment
of the Roma community

Report to the Committee
on Economic, Social
and Cultural Rights

Discrimination and the Roma Community

**Annual
Report
FSG 2012**



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CONSEJO PARA LA PROMOCIÓN
DE LA IGUALDAD DE TRATO Y
NO DISCRIMINACIÓN DE LAS PERSONAS
POR EL ORIGEN RACIAL O ÉTNICO

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Introduction

Introduction

Another year has gone by and the Fundación Secretariado Gitano (FSG) has once again drawn up its report on Discrimination and the Roma Community, the main object of which is to inform the Government and the society in general and to raise awareness and denounce the everyday discrimination faced by the Roma community by presenting these cases which bear witness to this violation of the fundamental right of equality. This publication also gives voice to the victims of discrimination who need to be defended and supported with a view to seeking solutions to this social problem and to contributing to the creation of a fairer society.

One of the FSG's main priorities is to promote equal treatment and combat ethnic discrimination given that discrimination is a violation of a fundamental right forming part of the regulatory framework governing such issues (especially Article 14 of the Spanish Constitution and Directive 2000/43/EC) and is an affront to personal dignity. It is also one of the main barriers standing in the way to achieving the social inclusion of the Roma community. The FSG's Area of Equality has been working on this problem for over 10 years and continues to develop a number of initiatives to combat discrimination against the Roma community:

- Actions to assist victims of discrimination, an area strengthened in 2010 and 2011 upon joining the Network of Centres providing assistance to victims of discrimination of the Council for the Promotion of Equal Treatment and non-discrimination of persons for reason of racial or ethnic origin which was inactive in 2012 but which we hope will reinstate activity again in 2013.
- Technical assistance and training of key players in the fight against discrimination: mostly technical personnel and the heads of administrations and social organisations, jurists, police and the media.
- Promotion of policies supporting the advancement of equal treatment by monitoring anti-discrimination legislation and its everyday enforcement.
- Social awareness-raising actions through the dissemination of information related with the fight against ethnic discrimination and the promotion of equal treatment and different awareness raising campaigns.
- Strategic litigation defending equal treatment in the courts.

The main part of this report focuses on increasing the visibility of the everyday discrimination faced by the Roma community in Spain through the identification of **148 cases of discrimination** in 2012 which show the problems encountered by Roma families in interviewing for job openings, renting a flat or getting in to a discotheque, and the unfair treatment they receive from certain professional sectors due to their ethnic group. The cases registered are presented by areas with disaggregated data in order to provide the greatest degree of information, including a description of some of the work strategies developed. Also, we have drafted **the conclusions** reached from our work assisting victims of discrimination and have made **proposals to achieve greater effectiveness** in the defence of people who fall victim to the regrettable act of discrimination.



The report then provides [an in-depth analysis of some issues](#) related to the social responsibility of the media in fighting discrimination featuring an article by Emilio de Benito, a journalist for EL PAIS, case law of the European Court of Human Rights with an analysis by constitutional law professor Fernando Rey and the strategic defence currently being provided by the Fundación Secretariado Gitano. Through these articles we believe that we are addressing three issues which are key today: working with the media, the need for strategic litigation and case-law focusing on non-discrimination.

The report continues tracing the important [advances](#) made in 2011-2012 at European and national levels: publications, recommendations, strategies, the active role played by the Fundación Secretariado Gitano as member of the FRA advisory committee, the work carried out by the Council for the advancement of equal treatment and non-discrimination for reasons of ethnic or racial origin, etc.

Lastly, it includes positive developments that have taken place during that same period: the work done by the Platform for Police Management of Diversity, diversity projects developed by Oberaxe, FSG training and awareness-raising initiatives and the report presented to the Economic, Social and Cultural Rights Committee, all actions which we feel are of particular interest for all of the key players involved in the fight against discrimination.

We are now immersed in a complicated socio-economic situation which is widening the inequality gap in our country. Spain has been a benchmark at European level for its social inclusion policy targeting the Roma community, a group which over the last 30 years has made important strides in several areas such as employment, housing, education, etc. thanks to public policies in the sphere of equal opportunity. However, despite these efforts, the Roma Community is still not at the level of mainstream society.

The ease with which this vulnerable group has arrived to the brink of taking a huge step backwards in the social inclusion process is particularly worrisome and we must therefore bolster the public policies guaranteeing equal opportunity in vital areas such as education, housing, employment, health and non-discrimination as a cross-cutting factor affecting all of these. It is therefore essential to execute a National Strategy for the Social inclusion of the Roma population (2012-2020) and the national strategy against racism, racial discrimination, xenophobia and other related forms of intolerance.

In the sphere of equal treatment and non-discrimination of the Roma community, deep-seated prejudices against this ethnic minority continue to engender serious social rejection which is plain to see in the cases registered, in the different Eurobarometers and the surveys conducted by the Sociological Research Centre. To make matters worse, today we are faced with discriminatory and racist incidents and expressions of hatred, especially on the Internet. The racist discourse of some Spanish political leaders is also cause for concern.

This is accompanied by [an increase in acts of discrimination and hatred against Roma throughout Europe](#). Unfortunately, 2011 has been no exception. The Council of Europe has identified a number of cases of discrimination against Roma in most European countries: the burning of homes, physical violence, hate speeches in the media by political leaders, school segregation, discrimination in access to the labour market, hospitals and social services, mass expulsions, destruction of homes...; the list goes on and on and requires decisive action on the part of authorities at all levels: local, regional, national and international. In 2011 international human rights organisations such as ECRI, FRA, OSCE, ENAR and Amnesty International have denounced all of these cases highlighting [anti-Gypsyism as a very serious, widespread phenomenon in Europe](#).

Despite the seriousness of the present situation, important strides have been made in Spain and the rest of Europe such as the criminal code reform bill, the work done by several organisations such as the Platform for Police Management of Diversity, the Council for the advancement of equal treatment and non-discrimination for reason of racial or ethnic origin, the action unit of the network of centres offering assistance to victims of discrimination, the appointment of Supreme Court prosecutors to address cases of equality, hate crime and discrimination services at a number of different prosecution offices, the work performed in this field by different social entities, the efforts made by the Fundamental Rights Platform, the Council of Europe, etc.

This year has been a complicated, characterised by economic cutbacks and difficulties faced by vulnerable groups in improving their lot. It was also a year in which social organisations played a key role, continued with their mission and received institutional support.

The challenge for our country now is for all agents involved to build a solid society where democratic principles, including equality, are guaranteed.

Once again, we would like to express our gratitude to all of the individuals and institutions who have collaborated in compiling this Report. Firstly to the workers of the FSG who, from their different work centres, were involved in the collection of and follow-up on the different cases and provided support to the victims of discrimination.

Secondly, to the Ministry of Health, Social Services and Equality which once again has provided the FSG with economic support for the actions we carry out in the promotion of equal treatment of the Roma community.

And lastly we express our appreciation for the collaboration received from Fernando Rey, Constitutional Law professor at the University of Valladolid and from Emilio de Benito, a journalist at EL PAÍS newspaper. Their specialised articles have bolstered our work in defence of equality and of all victims of ethnic discrimination who have shown the courage to confront this situation and report it to the FSG, an organisation which will continue doing its utmost to combat discrimination.

Sara Giménez Giménez
Responsible for the FSG's Area of Equality



Cases of discrimination



1. Conclusions and recommendations

The following conclusions and recommendations are the fruit of the work done by the Fundación Secretariado Gitano's Area of Equal Treatment in helping victims and analysing the 148 cases of discrimination recorded:

Conclusions

- I. There is still a great degree of permissiveness, indolence and impunity when it comes to racism and discrimination towards the Roma community.
- II. Victims of discrimination are in a position of defencelessness regarding their basic social rights such as access to employment and housing which are crucial in these times of economic crisis.
- III. The media continue to frequently transmit negative stereotypes about the Roma community which has a perverse effect on the community's image and is a breach of the equality principle.
- IV. The growth of anti-Roma sentiment on the Internet and social networks is of growing concern as is the difficulty in combating it.
- V. Security forces play a fundamental role in guaranteeing the right to equality; however we continue to record police actions which violate those rights rather than protect them.
- VI. Spain has yet to comply with its obligations under Directive 2000/43/EC to create an independent body to promote equal treatment and non-discrimination.
- VII. We have observed discriminatory speeches from some political leaders prevention of which calls for forceful measures .
- VIII. Spanish laws promoting equal treatment and non-discrimination are still practically unknown and are not applied in the courts.
- IX. Through the legislative, executive and judicial branches, Spain should establish the measures needed to guarantee the right to equality.



Recommendations

- I. An independent body needs to be created to promote comprehensive assistance, counsel and accompaniment for victims of discrimination given that the infringement of their right to equality qualifies them for protection and Spain is still lacking in that area. Victims of discrimination must not be left defenceless.
- II. In these times of economic crisis, public measures adopted must safeguard the principle of equality and not contribute to widening the social inequality gap.
- III. It goes without saying that public authorities should comply with the equal treatment principle.
- IV. Effective social awareness-raising initiatives must be implemented so that discrimination is considered a socially unacceptable behaviour.
- V. The media, as key players in social awareness-raising and public opinion, must contribute to strengthening the value of equality and not contribute to any type of prejudices or stereotypes.
- VI. Anti-discrimination training is vital for all key professionals, i.e. jurists, the media, law enforcement officials, politicians, etc.
- VII. Case law is needed in this connection so that victims are able to receive compensation and to show society that there is no place for discrimination in this country.
- VIII. The government needs to foster the execution of the National Strategy against racism, racial discrimination, xenophobia and other related forms of intolerance as well as the National Strategy for the Social Inclusion of the Roma Population.
- IX. It is vital that the Spanish government show the entire society its firm stance in support of equal treatment and non-discrimination.



1. Discrimination in the Media: cause for concern

Fifty-two percent of the cases registered in 2011 were in the sphere of the media. Following are the reasons for the high number of discriminatory incidents in this area:

The FSG has a press alert service run by the documentation centre and we also monitor publications through the area of communication and at each of our territorial offices.

It is important to realise that in these cases no specific victim needs to file a complaint for discrimination thus making them easier to detect and record.

Following are the conclusions of the work performed in this area:

Over 90% of the cases are related to items in the written or digital press where the ethnic origin of those involved in the stories is specifically mentioned.

We would stress that in these cases knowing the ethnic group of those involved does not contribute to the comprehension of the news story and only serves to reinforce the negative image of an entire community already seriously affected by prejudice resulting in social rejection. Also, the use of stereotyped terms such as *reyerta* (brawl) or *clan* create an association in people's minds between this minority group and some negative behaviour.

Another aspect we must not lose sight of is the fact that the right *"to freely express and disseminate thoughts, ideas and opinions by word, in writing or by any other means of communication"* granted by the Spanish Constitution is not without limits nor is it absolute. The Constitution itself lays down limits in referring to "respect for the rights recognised in this Title, by the legal provisions implementing it, and especially by the right to honour, to privacy, to personal reputation and to the protection of youth and childhood. In addressing the problem of the conflict between the fundamental right to honour and the right to freedom of expression, Supreme Court doctrine has established that *"freedom of expression cannot be invoked to legitimise an alleged right to insult others given that this would enter into conflict with the dignity of persons proclaimed under Article 10(1) of the Constitution"*.

Action taken by the Area of Equality

When confronted with a discriminatory news item, the area of equality follows a pre-established protocol. First we analyse it and then contact the media in question sending them a letter of complaint along with a copy of the FSG's "Practical guide for journalists; equal treatment, discrimination and the Roma community" and always avail ourselves to help find a solution. This year we have received few conciliatory responses but have noted a slight improvement vis-à-vis previous years in terms of apologies from the directors of some newspapers.

We therefore believe that we must continue to work on the training and awareness-raising of this professional sector which is vital in building the social image of the Roma community.

The remaining 10% of the cases in this area have to do with discriminatory comments, sometimes expressing hatred towards the Roma community, in Internet fora, web pages and television programmes disseminating images and discourse encouraging the rejection of the Roma Community

We are particularly concerned about the repercussions of Roma-phobia on the Internet where a discriminatory incident can expand exponentially and the anonymity of the perpetrators makes it all the easier.

Work performed by the Area of Equality.

Today there are few tools to effectively combat discrimination on the Internet, the complaint mechanism provided by some servers proving ineffective. However, when people join forces and react by sending multiple complaints against these intolerable comments, the discriminatory content is often removed. We therefore consider this a good strategy to achieve a short-term positive result.

However, there are certain types of racist, discriminatory and hate content which could even constitute a criminal act and in this case the channels are different. A formal complaint must be filed through the hate and discrimination crime service set up at some prosecution offices such as in Barcelona, Madrid, Seville, Malaga, etc. In this sense we applaud the Organic Law bill submitted on 11 October 2012 calling for the amendment of the



1995 criminal code, specifically Article 510, which will adapt our law to Framework Decision 2008/913/JAJ and classifies the crimes of incitement to hatred or racist violence and the production or distribution of materials

designed to incite hatred or violence against minorities. It also includes measures to deal with the destruction of documents, files or materials used to commit these crimes.

2. The most vulnerable have greater difficulty in accessing employment due to the barrier of discrimination

Of the 16 cases in the field of employment, 87.5% occurred at the access stage, i.e. victims were denied employment without considering their qualifications for the opening. They were either not given an interview or were rejected during the selection process when the employer found out that they were Roma by their surnames or certain physical traits.

Social rejection in this area is very worrying given the current economic crisis where unemployment of the Roma community stands at 36.4%¹ and considering that employment is a requisite for social inclusion.

It should also be noted that, according to the study "Roma, Employment and Social Inclusion" published in 2012 by the FSG, discrimination in employment affects mostly people between the ages of 25 and 44 who are unemployed, have family responsibilities and little education. Those who are illiterate are hit particularly hard.

According to that same study, the Roma population feels the greatest degree of discrimination precisely in the context of job seeking. Almost half of all Spanish Roma have experienced these feelings in the past twelve months when looking for work. This percentage is quite similar to the figure recorded in the previous study conducted in 2005 (53.4%), indicating that the discriminatory situation has not substantially improved in the interim.

In addition, we have found that refusing access to employment on discriminatory grounds (naturally there is no labour contract) is particularly hard to combat. More-

over, as in previous years, the victims of this sort of discrimination are reluctant to file a complaint for fear of the repercussions this could have on their job search.

For all the above we advocate:

Awareness-raising and involvement of the business sector in this area, appealing to their obligation to refrain from discriminatory hiring practices and introducing them to businesses that are exemplary in terms of inclusion and diversity

Action on the part of the Labour Inspectorate to ensure compliance with the principle of non-discrimination when it comes to hiring practices, something that has not been done to date.

Continued development of programmes in this time of crisis to help the most vulnerable gain access to employment because they are the ones facing greatest rejection and the least likely to escape from social exclusion.

Bringing ethnic discrimination cases in the sphere of employment to the courts and applying the appropriate regulations, particularly Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation.

¹ Data taken from the study entitled "Roma, Employment and Social Inclusion" FSG, 2012. http://www.gitanos.org/upload/60/99/empleo_e_inclusion_social.pdf



3. Problems defending non-discrimination in the area of housing

We recorded 13 cases of discrimination in the area of housing and **all related to access**, either buying or renting.

In this context, and given that we are dealing with the rights of individuals, victims find themselves in a serious state of defencelessness with regard to the right to equality.

In most of the cases reported, estate agencies discriminate on behalf of homeowners who make it clear that

they "do not want their home purchased or rented by a Roma individual or family".

Housing is a basic social right, vital to the residential inclusion of the Roma community, and therefore we need **a mechanism to defend victims of discrimination in this sector such** as the one envisaged in the Comprehensive Equality bill which, in the end, was not approved. Unfortunately, homeowners are not bound to uphold the right to equality in this context.

4. An independent body must be created to defend victims of discrimination

The independent body called for under Article 13 of Directive 2000/43/EC **implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, transposed into Spanish law, has still not been created**. This has a negative effect on the approach taken to fight discrimination. Victims must be informed, advised and accompanied throughout the process of defending their rights and therefore need such a body. The prevailing sense of futility people feel when it comes to defending their rights and the lack of comprehensive defence mechanisms, are some of the main reasons that people suffering this type of injustice do not report it.

In this regard we would highlight the words of the former Commissioner for Human Rights of the Council of Europe, Thomas Hammarberg, who denounced this situation in 2011 through his "Report on the human rights situation of Roma in Europe" (*Human rights of Roma and Travellers in Europe*), "These problems are compounded by the failure of the justice system to respond adequately to complaints from Roma on racial discrimination and other abuses. Efforts to improve the efficiency of the justice system's response to discrimination should include the establishment of effective measures against discrimination, as well as specialised agencies and mechanisms to deal with complaints and assist in the implementation of the legislation."



5. Law enforcement officials as key players in combating discrimination

Although the role of law enforcement officials is to ensure compliance with the law and safeguard citizens, all our discrimination reports have recorded cases of discriminatory practices by the police such as ethnic profiling, racist insults during police actions and even occasionally disproportionate physical aggression.

In some other cases we have recorded discriminatory behaviour on the part of private security agents that monitor and control Roma in shops because they suspect they are liable to commit an offence.

It is essential to continue offering training activities and joint work with all professional groups entrusted with

guaranteeing equality and therefore one of the cornerstones of our intervention focuses on educating and raising the awareness of this group of professionals.

Moreover, in the area of public security, we need a state-wide register of racist incidents detected by Spanish law enforcement officials and a police protocol to assist victims of discrimination. We hope that immediate action is taken in this regard to provide effective defence against racist and discriminatory incidents, many of which are hate-related. This register would also serve as an objective database which we currently do not have, a disturbing reality that really must be addressed.

6. Racist and discriminatory rhetoric by political leaders

Unfortunately, in 2011 and 2012 some Spanish political leaders made racist and discriminatory statements in public. Public authorities are entrusted with the task of ensuring fundamental rights for all citizens while adhering to the principle of equal treatment and promoting the values necessary for appropriate social coexistence. There is no place in a democratic state for discriminatory rhetoric from political leaders.

Former Human Rights Commissioner of the Council of Europe Thomas Hammarberg, denounced this situation in his 2011 report on the human rights situation of Roma

in Europe: "The consequences of xenophobic statements by political leaders should not be trivialised. We have seen cases of violence against Roma in the Czech Republic and Hungary. Anti-Roma sentiment still prevails across Europe. In times of economic problems there appears to be an increased tendency to focus frustration on scapegoats—and Roma seem to be one of the easy targets. Instead of fishing in troubled waters, local and national politicians must uphold the principles of non-discrimination and respect for people of different ethnic backgrounds. At the very least, politicians should avoid this anti-Roma rhetoric."



2. Cases of discrimination collected in 2011 by area

Cases of discrimination in the media

1. Castile-Leon. Press. Direct discrimination.

The print edition of a national newspaper published the following news story in two of its local publications: "Copper theft, a great business". Distinguishing between different groups devoted to this activity, the article expressly refers to "small groups of Romanian or Spanish Roma, the latter linked to other undesirable activities such as drug dealing. This is common practice in Castile-Leon ..."

2. National. Press. Direct discrimination.

In the online edition of a regional newspaper we found an article featuring the headline "The city of the shooting deaths": "The brawls between Roma clans marked the beginning and the end of the first five years of the 21st century ..." Stereotyped terms as "reyerta" (brawl) and "clan" are used to intentionally link the Roma community to a criminal act.

3. Andalusia. Press. Direct discrimination.

A local newspaper reported on a young Roma man's appearance before the High Court of Justice of Andalusia and included comments such as: "as the Roma curse goes: you have a lawsuit you win a lawsuit. Roma have always considered judges' and lawyers' robes to be a little creepy and they know full well that you have everything to lose if you get involved in a lawsuit. To confirm this we have the story of the lawyer who takes the case of two Roma arguing over a donkey." Negative stereotypes and preconceived notions such as this reinforce the social rejection of the Roma community.

Un negocio redondo

Desde pequeños grupos a mafias internacionales. La demanda china es, desde hace cinco años, un acicate. El número de hurtos y de detenidos se habría duplicado en lo que va de año en la región, donde los polígonos industriales son los más «afectados»

Micro y macro delincuencia

Los expertos coinciden en que el «modus operandi» tiene una doble vertiente: las minúsculas bandas que hacen pequeñas aprehensiones y las mafias organizadas y de carácter internacional. Uno y otros no sólo se diferencian en la cantidad de cobre que roban, sino en sus receptores, parte fundamental del negocio.

Los primeros suelen ser grupos pequeños de gitanos rumanos o españoles, estos últimos vinculados a otros menesteres poco recomendables como el tráfico de drogas. Es lo más habitual en Castilla y León. Su labor es bien fácil: localizan una subestación, centro de transformación, urbanización, un polígono industrial, una finca semi abandonada y allí van. Un cortafiezo o una radial son más que suficientes para pegar el corte, tirar del cable y, rápidamente, cargarlo en una furgoneta, camino de su refugio. «Como se conocen la legislación, utilizan a los menores de edad de la familia, de 16 o 17 años, para conducir los vehículos, pues saben que no tienen tanta responsabilidad», explica la Guardia Civil.

Aunque desde la Delegación del Gobierno en Castilla y León prefirieron no ofrecer datos oficiales a este periódico, las cifras conocidas indican que el número de robos se había duplicado en lo que va de año, pero también el de detenidos. Cada semana se producen de media al menos un robo, pero también son frecuentes las operaciones en las que se desmantilan estas pequeñas redes. La última de ellas, se saltó con dos arrestados en Guipuzcoa en posesión de 800 kilos de material de cobre que presuntamente habían sido robados poco antes en una empresa de Miranda de Ebro. Tras el hurto, el primer paso es el de la «limpieza» del cable robado. Eliminar el plástico que lo cubre es necesario, principalmente, por dos razones. Por un lado, porque ahí es donde el material lleva tatuado su ADN, los datos de procedencia; además, el cobre sin cubrimiento se paga mejor, aunque pase menos.

El London Metal Exchange (LME) es el organismo que regula el precio del cobre, que es muy fluctuante, aunque podemos situarlo en una media de 3.800 euros la tonelada, sin contar el plástico, que hace ascender el precio a un máximo de 6.000. El dato del LME es de referencia, pues el cobre puro casi no existe en el cobaldado, pero da una idea cercana de los beneficios que obtiene cada uno de los participantes en esta rueda delictiva. Porque el destino del botín aquí se bifurca. Si ha sido objeto de un pequeño grupo, irá a manos de un chatarrero franquista, ilegal. «Los ilegales saben generalmente cuándo el cable que les llevan es de procedencia ilícita. Fíjan el carné de identidad al vendedor, lo fotocopian y coetiquilan la cantidad que les llevan, se aseguran de su origen. Si perciben algo extraño, avisan a la Guardia Civil o a la Policía», nos dicen desde la Federación Española de la Recuperación y el Reciclaje (FERR), patronal del sector.

Pero puede que se la «cuelen» a alguno o que el ladrón tenga ya una agenda de compradores, que es lo más normal. El precio de compra suele ser de un porcentaje del original, y el chatarrero se lo vende a un mayorista, que lo clasifica y lo compacta: su beneficio suele ser del 10%. Luego, en lotes homogéneos de 20 toneladas, llega a una fundición, donde se tritura, se convierte en nuevo material de cobre y se vuelve a recibir con plástico: el cable está de nuevo listo para entrar en el mercado. En definitiva, que de los 5.800 euros iniciales, el ladrón se puede llevar 1.500 o 2.000, otros tantos el chatarrero, 3.000 o 4.000 la fundición... Al final, a la empresa víctima del delito, la hebra le sale por otros 9.000 euros la tonelada, pues lo compra ya con revestimiento plástico. «Pero el 90% de lo que manejan las mafias es para China», indican en la FER. Son robos al por mayor, de 25 y 50 toneladas, que pueden alcanzar los 300.000 euros. Incluso roban en las chatarrerías y centros de reciclaje o a camiones de estas empresas, cargados de material. También se nutren de cobre que El Gallinero no puede vender. Llevan el botín a Francia o Italia y desde un puerto extranjero llega a China. Allí les pagan 2.700 euros por tonelada y luego fabrican las consolas de videojuegos que disfruta Occidente. El círculo, por tanto, se cierra.

CASE 1



4. **National. Internet. Direct discrimination.** On an Internet news portal we found an article entitled "A 23 year old woman becomes the world's youngest grandmother". By adding information about the young woman's Roma background and some alleged customs that do not correspond to the heterogeneous reality of this ethnic minority, what might have been just another news story became a breeding ground for racist and xenophobic comments sent anonymously and appearing on the page adjacent to the article.

5. **National. Private TV. Direct discrimination.** A national private television station broadcasted a report entitled "Slaves of the narcos" about the situation of some addicts in La Cañada Real in Madrid associating Roma with criminal activity.

6. **National. Internet. Direct discrimination.** The online edition of a national newspaper published an article on the recommendations made in March by the United Nations Committee on the Elimination of Racial Discrimination (CERD) to the Spanish Government. Forum comments about the news item included all kinds of racist and xenophobic comments, 369 in a single day.

7. **National. Internet. Direct discrimination.** An online news portal published an article about FSG proposals sent to political parties with regard to the elections on 22 May 2011. The information was not received properly and gave rise to a series of anonymous racist comments.

8. **National. Internet. Direct discrimination.** Racist content was found on a web page. Specifically, it was the site of a comedian doing comical versions of songs and monologues. In the presentation of one of his songs, "Lolaila," he refers to the "gitanillos" (disrespectful way of referring to Roma) and narrates a series of stereotypes and prejudices about the Roma community as a whole. We posted a complaint and received a response from the author who apologised and removed the song.

The screenshot shows the website EL MUNDO.es with a news article titled "La ONU pide a España que acabe con las 'detenciones indiscriminadas' de inmigrantes". The article discusses the UN Committee on the Elimination of Racial Discrimination's (CERD) recommendations to the Spanish government regarding the treatment of immigrants. The article text includes sections like "Alerta también sobre el tratamiento policial a los 'sin papeles'", "Denuncia la concentración de niños inmigrantes y gitano en 'escuelas gueto'", and "Elige los acuerdos sobre repatriación de menores no acompañados".

To the right of the article, there is a "Comentarios" (Comments) section with 367 comments. Several comments are visible, all from anonymous users (Anónimo). The comments are numbered #9, #14, #34, #65, #69, and #78. The comments express various opinions, some critical of the article's content and others expressing concerns about immigration and social issues.

CASE 6



- 9. Castile-Leon. Press. Direct discrimination.** The digital edition of a regional newspaper published a report entitled "Arrested for stealing a car at a bar and assaulting Civil Guard officers" in relation to events that occurred in a town in Leon. The article specifically refers to the ethnic background of those involved, superfluous information and only serving to foster the association, ingrained in our society, between the Roma community and crime.
- 10. A Coruña. Internet. Direct discrimination.** The online edition of a Galician newspaper ran a story based on the FSG's annual report about the number of cases of discrimination against the Roma community or its members. Readers then posted their comments, most of which were full of racist comments.
- 11. National. Internet. Direct discrimination.** An Internet portal using an encyclopaedia format has a search engine where the word "gitano" (Roma) brings up a text loaded with negative stereotyped images of the Roma community.
- 12. A Coruña. Press. Direct discrimination.** Through the news alert service at the FSG's documentation centre we came across a story published on 8 May 2011 in the metro section of a Galician newspaper entitled "A group of Roma in Meicende assault a woman driving a passenger car". The mention of ethnic group was not justified.

The screenshot shows the Epistemowikia website interface. At the top, there's a search bar and navigation links like 'artículo', 'discusión', 'ver fuente', and 'historial'. The main heading is 'Epistemowikia' with the subtitle 'Revista «Hiperenciclopédica» de Divulgación del Saber'. Below this, it indicates 'Segunda Época, Año VII' and 'Vol. 6, Núm. 4: de octubre a diciembre de 2012 (en curso)'. A disclaimer states that the site is not responsible for the content of its collaborators. A table of contents is visible, listing sections like 'Sociedad', 'Per país', 'Historia', 'Referencias', 'Enlaces externos', and 'Licencia'. The article 'Gitano' is partially visible, starting with 'Gitano (De egipcio, dado que se creía que procedían de Egipto), individuos de un pueblo nómada originario de la probablemente de la India, desde donde migraron desde el siglo X. Habitan en Europa, Asia occidental y Latinoamérica. Mantienen una identidad cultural y unos rasgos físicos propios.' There are also images of Roma people in the article.

- 13. National. Press. Direct discrimination.** the ABC newspaper published a story about a drug bust in a slum neighbourhood and, while not stating the ethnic group of those involved in the event, it did refer to an area where many Roma families live. When the Area of Equality was about to send a letter to the newspaper, we found that the news item had been modified and the reference to the Roma families had been removed. A letter was then sent thanking the newspaper for making that modification.
- 14. National. Press. Direct discrimination.** On 25 May 2011 the newspaper La Vanguardia ran an article entitled "A family conflict requires surveillance of two schools in Gerona." According to the story, the problem was rooted in a family dispute and unnecessary mention was made of the ethnic group of the families involved.
- 15. Aragon. Press. Direct discrimination.** A newspaper in Aragon ran a story entitled: "NO SIR, ROMA DO NOT FILE TAX RETURNS." The article then goes on to describe actions that could be classified as fraudulent tax practices and concludes with that same sentence which appears in the court file.

CASE 11

- 16. Aragon. Press. Direct discrimination.** In the same newspaper as the previous case we came across the story entitled "A brawl with knives in the town centre ended with 3 young people seriously injured, one in the ICU". The text mentions that two of the young people involved were Roma.
- 17. Salamanca. Press. Direct discrimination.** Once again, the most popular local newspaper of Salamanca ran a story signed by a reporter who has written many similar stories where he mentions, both in the sub-headline and the text, the ethnic group of the three people arrested for attempted robbery.
- 18. Basque Country. Press. Direct discrimination.** A story appeared in the Alava edition of a national newspaper in which a neighbour complains about several things and suggests that "the Roma sell drugs and use the unused parking places in the garage for their business dealings". The article was accompanied by a photograph showing the person's car and plate number which caused him numerous problems.
- 19. Basque Country. Press. Direct discrimination.** Through our Documentation Centre we received a story describing Romanian "Roma clans" living in sub-standard housing areas of Valencia and describing the situation of marginalisation. It then goes on to associate that community with criminal acts in addition to using terms such as "clan" associated with the ethnic group of the persons involved.
- 20. National. Private TV. Direct discrimination.** During the programme called "Don't tell Mum that I work on television" broadcast in July 2011 in the slot known as "The Manueles" of a national private television channel, two presenters make continuous references and offensive comments about the Roma, encouraging prejudice and discrediting the values of Roma culture.

HERALDO
DE ARAGON

BLANQUEO DE CAPITALS

«NO SEÑOR, LOS GITANOS NO DECLARAMOS A HACIENDA»

José Manuel Romero y su mujer, Juana Sánchez, están acusados de un delito de blanqueo de capitales, además de tráfico de drogas. Ayer dieron una lección al tribunal de cómo vivir de la chatarra y tener cuatro viviendas –en Plasencia (Cáceres), Navalcarnero (Madrid), Escalona (Toledo) y Campeello (Alicante)– algunas de ellas con terreno, fondos de inversión por importe de 185.560 euros (la mujer) y por 11.000 (el marido), ocho coches a nombre de este último y una caja de seguridad en la que, según Romero, «se metieron nueve millones de pesetas cuando se casó el hijo». Al mismo tiempo, viven en una casa de protección oficial por la que pagan 53 euros de alquiler. «¿Ustedes han tenido tratos con Hacienda alguna vez?», les preguntó el fiscal Manuel Torralba. «No señor, los gitanos nunca declaramos a Hacienda», le contestó Juana Sánchez, quien, además, ha tenido la suerte de que le tocara la lotería dos veces. **M. G. C.**

CASE 15

EN EL PARAJE DE 'LA FUENTE' ■ OLEADA DE ROBOS

Tres detenidos por asaltar provistos de barras de hierro una finca de Florida de Liébana

■ Propinaron un golpe al dueño y huyeron con el botín ■ Otra nave de la zona sufrió el robo de 3.000 euros en material agrícola días antes

M.C. Agentes del Puesto de la Guardia Civil de Santa Marta de Torines arrestaron ayer a tres familiares de etnia gitana –los hermanos J.D.S.V. y S.D.D.S.V., de 22 y 20 años; y su primo J.M.V., de 29– como presuntos autores de un violento asalto perpetrado dos días antes en una parcela de Florida de Liébana. Los asaltantes iban armados de barras de hierro y propinaron un empujón al dueño de la parcela para llevar a cabo el robo. Días atrás, otro vecino de la zona sufrió la sustracción de todo el material agrícola que guardaba en su propiedad, efectos que valora en al menos 3.000 euros, según ha podido saber LA GACETA.

Ambos robos han tenido lugar el pasado domingo, en un paraje conocido como 'La Fuente'. En el primero, los ladrones accedieron a la parcela tras romper la cadena de una puerta y, provistos de barras de hierro, le presionaron al propietario en la zona de chatarra. Ante la negativa de este, los tres asaltantes, le dieron un empujón en la casa y a continuación entraron en la parcela y la registraron, huyendo finalmente tan solo con los objetos que había en el exterior de la parcela.

La detención de los presuntos autores se produjo sobre las nueve y media de la mañana del martes tras ser localizada la furgoneta, modelo Ford Transit con placas de matrícula de Valladolid, con la que presuntamente huyeron tras cometer el asalto.

Días antes, según manifestó a

este diario su propio propietario, tenía lugar otro robo en una nave de la zona. El dueño de la nave, ganadero de profesión, fue alertado por una vecina de que desde hacía días personas desconocidas le habían sustraído diverso material de sus instalaciones.

Cuando el ganadero acudió a sus propiedades para conocer lo ocurrido se encontró con que se lo habían sustraído "todo", manifestó. Bañeras, cañizas, pilas y somieres, entre otros útiles agrícolas, todo ello valorado en más de 3.000 euros, según concluyó.

Las detenciones fueron desarrolladas por agentes de la Guardia Civil/ ARCHIVO

CASE 17



- 21. Navarre. Press. Direct discrimination.** The Journal of Navarre ran a story on 15 July 2011 entitled "A 51 year old man from Berriozar was killed as the result of a beating". The article mentions the ethnic group of the person who died, that he had committed public health crimes and that his death could have been to "settle old scores" and that he worked in scrap metal collection.
- 22. Salamanca. Press. Direct discrimination.** In the regional paper of Salamanca the same journalist as Case 18 again insisted on mentioning the ethnic group of a person accused of a criminal act.
- 23. Seville. Press. Direct discrimination.** A photograph was published in a free newspaper of people (some of them children) bathing in a fountain with the following caption: "This scene is repeated almost daily in one of the fountains of Isla de la Cartuja in Seville. A group of Roma people, with children, always follows the same ritual: they bathe with their clothes on, wash their hair and, before leaving, fill bottles." The director of the newspaper replied to our letter apologising for the story and sending his support for minorities together with his intention of not repeating this mistake. He also asked us to send him the FSG's Guide for journalists for his script writers.
- 24. Seville. Press. Direct discrimination.** In July 2011, the Seville Section of the ABC newspaper published a story in which the term "clan" was repeatedly used to refer to a family group. A letter of complaint was sent and a response received from the director apologising for the incident and promising to remedy the situation.
- 25. Salamanca. Press. Direct discrimination.** Regional newspaper of Salamanca. This time the journalist referred to the ethnic origin of a person who committed a crime in Salamanca.
- 26. National. Internet. Direct discrimination.** In a basketball forum called ACB.com basketball, there was a discussion thread open with the title "What opinion do you have of Roma?" where racist comments about the Roma community were published.
- 27. Almeria. Press. Direct discrimination.** A news story focuses on a homicide in Palomares, where a couple and their son perish. While the cause of the incident is not known, the publication identifies the victims as Roma. Racist comments are posted by readers.

The screenshot shows a forum thread on ACB.COM titled "¿Qué opinión tenéis sobre los gitanos?". The thread contains several posts with user avatars, names, and messages. The posts contain racist comments about Roma people, such as "Una lacra para el país, sucios, antisociales, inmovilizados y ladrones. Y si generalizo porque es mas fácil no equivocarse y lo se porque a 1km de mi casa tengo un poblado de la gentuza esta." and "Creo que son el centro del universo, no hay ninguno que sea humilde, son racistas, no respetan ni las leyes ni a las personas pero siempre exigen respeto." The thread also includes a post with a photo of a person and the text "ホセ アンツレス".



- 28. **Valencia. Press. Direct discrimination.** A newspaper ran a story about how people were looting unoccupied homes and stealing shingles. The story mentions that Roma live in the unoccupied homes thus tarnishing the image of the Roma community by identifying it with marginalisation and delinquency.
- 29. **National. Press. Direct discrimination.** Several media sources reported on a shooting in Merida resulting in several deaths. They emphasised that those involved were Roma. The FSG sent letters expressing the inappropriateness of such reporting and responses were received from some apologising for the improper handling of the story.
- 30. **National. Internet. Direct discrimination.** Following the enactment of a law regulating scrap metal collection, a discussion thread was opened in the forum policia.es under the following heading: "If these people are acting against the law then the law must be good." This sparked a series of offensive remarks, some of which refer directly to Roma and others that allude to them indirectly but with the same mean-spirited intent.
- 31. **International. TV. Direct discrimination.** A crime was committed in Barranquilla, Colombia: a Roma woman there on holiday with her husband was killed. A Colombian television channel owned by a Spanish media group broadcast a story about the family of the deceased, mentioning that she was Roma and making serious accusations about her alleged involvement with drug trafficking. The report was full of stereotypes and linked crime and violence to this ethnic group.



FORO POLICIA
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32.

SI ESTA GENTE ESTÁ EN CONTRA, ES QUE LA LEY ES BUENA

Moderador: Moderaciones Zonales

RESPONDER K | Buscar este tema... | Enviar

SI ESTA GENTE ESTÁ EN CONTRA, ES QUE LA LEY ES BUENA
D por CaptainMerlow » Jun Ago 11, 2011 9:49 pm

Unos 200 chatarreros se manifiestan contra la ley de residuos

"Chatarra sí, impuestos no". Con este grito unos 200 chatarreros se han manifestado hoy en Madrid en la primera protesta del sector en la historia española para censurar la nueva ley de recogida de residuos que prohíbe la recogida de hierro, cobre y otros metales en la calle. El lema de la marcha: "La ley de residuos nos obliga a robar. La basura es lo único que tenemos, no nos la quitéis".

"La nueva norma dejará sin comer a miles de familias", ha asegurado entre aplausos el portavoz de la Plataforma de Chatarreros de la Comunidad de Madrid, Lisardo Hernández, quien ha atribuido a la legislación "oscuros intereses recaudatorios". Hernández ha pedido a la ministra de Medio Ambiente, Medio Rural y Marino, Rosa Aguilar, "la derogación de la ley" y ha amenazado con acampar frente a la sede del ministerio si no se retira la norma.

La ley, que entró en vigor el pasado 28 de julio, entiende que todo producto férreo que se encuentra en la calle es de propiedad municipal. Esta consideración impide la labor que desarrollan cientos de personas que consiste en recoger material de hierro o cobre de obras, calles, descampados o basureros para luego venderlo a las chatarrerías.

La consejera de Presidencia y Justicia de la Comunidad de Madrid, Regina Plañol, ha anunciado que analizarán cuáles son las peticiones de los chatarreros y el margen de maniobra del Gobierno regional.

"Estamos dispuestos a escuchar las manifestaciones y las opiniones que nos hacen todos los ciudadanos, especialmente aquellos que puedan sentirse más directamente afectados por normativas de esta materia", ha señalado la consejera durante una visita a las Brigadas de Seguridad Ciudadana de San Lorenzo de El Escorial.

La marcha, respaldada por la Federación de Asociaciones Gitanas Cali (FAC) ha partido a las diez de la mañana desde la plaza de Cibeles y ha terminado en la Consejería de Medio Ambiente. Una vez allí se ha leído un manifiesto para pedir al Gobierno central que anule la ley y al regional que ralentice su aplicación "lo máximo posible". Solicitan, además, a las fuerzas de seguridad que no inicien "una caza de brujas" contra este colectivo.

Lisardo Hernández critica también que a las chatarrerías habituales ya no se les permite comprar este tipo de productos al por menor, lo que obliga a los vendedores a conseguir una licencia de técnicos transportistas de residuos sólidos no peligrosos y transformarse en empresas o autónomos con el respectivo pago del Impuesto de Actividades Económicas. "La ley merma los únicos ingresos de miles de madrileños que llevamos muchos años recogiendo chatarra. Sin previo aviso, nos aplican la ley y nos abocan a la nada", indica.

Plañol ha matizado que es la recogida de chatarra es una actividad que se va regulando "cada vez más" y ha considerado que es "demasiado pronto" para saber si se pueden estimar las reivindicaciones de los chatarreros.

http://www.elpais.com/articulo/espana/2...;unac_2/Tes

Para el que quiera buscar, se trata de la Ley 22/2011, de 28 de julio, de Residuos y Suelos Contaminados: <http://www.boe.es/boe/dias/2011/07/29/pa...-13046.pdf>

Lo que la noticia y los protagonistas de ella no dicen es que gracias a esta Ley se podrá actuar contra los que sistemáticamente están "conviniendo" en chatarra todo el cableado y toda pieza de metal que se "encuentran" en el campo y en las Infraestructuras viarias.

Espero que las administraciones competentes (las consejerías autonómicas de medio ambiente) no se les ocurra prevalicar y cursen con arreglo a la ley las denuncias que les van llegar por parte de los cuerpos policiales que tienen que luchar diariamente con los robos de cobre y metales.

"Uno es poli porque no sabe no serlo... Si sientes así, eres poli... Si no, no lo eres. Tú decides" (agente John Cooper, en "Southland").



Recicla la Luz, Recicla la Vida

Reciclaje de Bombillas y Fluorescentes. Puntos de Recogida en Todo España

Más información

Re: SI ESTA GENTE ESTÁ EN CONTRA, ES QUE LA LEY ES BUENA
D por sanctuary » Jun Ago 11, 2011 8:35 pm

Pues es una pena, la chatarra debe dar muchísimo dinero, por que siempre que les preguntas a quienes todos sabemos dicen vivir de ella, les da para bmw pagados en mano en el concesionario, LED de 50 pulgadas, ropa y móviles caros y tal

Re: SI ESTA GENTE ESTÁ EN CONTRA, ES QUE LA LEY ES BUENA
D por bigo » Jun Ago 11, 2011 7:48 pm

44 sanctuary escribió:
lo mejor es el otro día en canal sur creo que fue una **boda gitana, hay 8 o 9 así bien vestidos** y les dicen de donde sacais para todo este lujo y dice uno de la chatarra, se miran los unos a los otros y se ríen y la reportera se rie con ellos, es que reíeis las gracias a los gitanos en la tele queda muy chic

"Boda gitana" y "bien vestidos" son palabras que JAMÁS pueden ir juntas en una frase y que esta tenga sentido...

Re: SI ESTA GENTE ESTÁ EN CONTRA, ES QUE LA LEY ES BUENA
D por MCape » Jun Ago 11, 2011 7:50 pm

no sabeis la de veces que me he planteado colgar el uniforme, comprarme una fregoneta y dedicarme a la chatarra...

ahora, con la nueva ley, se esfumó mi sueño de hacerme rico trabajando honestamente...

Re: SI ESTA GENTE ESTÁ EN CONTRA, ES QUE LA LEY ES BUENA
D por mteat » Vie Ago 12, 2011 11:13 pm

Rompo una lanza en su favor para culpar a la sociedad: si desde niño te enseñan que las leyes son para que las cumplan los demás, esas costumbres luego son muy difíciles de romper.

44 B.C.I. escribió:
Veremos, en caso de que cumplan con la "amenaza" de acampar frente al Ministerio, si la Autoridad tiene tanta manga ancha como para con los del "15-M".

Tú día ideas, que igual les alquilan el Ministerio por 200 euros al mes y desaparecen hasta los gritos

La libertad dijo un día a la ley: ¡Pá me autoritas!
La ley respondió a la libertad: Yo te guardo.

Re: SI ESTA GENTE ESTÁ EN CONTRA, ES QUE LA LEY ES BUENA
D por kooowestram » Sab Ago 13, 2011 10:36 am

Iba a decir que igual hasta meten el burro en el ministerio, pero en eso ya se les han adelantado hace mucho tiempo.

24

CASE 30



- 33. National. TV. Direct discrimination.** On 2 August the first chapter of a controversial documentary called "My Big Fat Gypsy Wedding" was aired. This show allegedly intends to show its audience how marriages are really celebrated in the Roma community in the UK. This documentary was very controversial in the UK because it implies that Roma are ostentatious, wasteful and do not treat women equally. In Spain, the broadcast of this programme has led to the creation of Facebook groups protesting against the programme and some people are taking legal action against it. The FSG issued a statement against the contents of this broadcast.
- 34. National. Internet. Direct discrimination.** In response to a news story published in a national newspaper about the return of Eastern European Roma to French shanty towns after their expulsion last year from that country, we found insulting comments such as the following from readers in the online edition of that same paper: "We cannot have these people ignoring our laws (with no vaccinations and living like wild animals); it makes me sick."
- 35. Seville. Press. Direct discrimination.** Comments from people living in the Vacie neighbourhood of Seville sent a letter to the director of a national paper which was published in its Seville edition: "Invasion of foreigners collecting scrap metal and spreading garbage", accusing them of continuously accumulating tons of garbage. A letter was sent to the content Director who apologised for the news item and informed us that it would not happen again.
- 36. Pontevedra. Press. Direct discrimination.** Through the FSG's Documentation Centre news alert service we became aware of a story from the Diario de Pontevedra which made reference to the Roma ethnicity of a family involved in a news story. The FSG sent a letter and received an apology from the assistant editor who requested a copy of our publication A practical guide for journalists. Equal treatment, the media and the Roma community
- 37. Almeria. Press. Direct discrimination.** The newspaper Ideal of Almeria ran a story under the headline "Collecting signatures to support the family of Jose A. Zamora" after he killed three members of a Roma family and received the support of many citizens around the country for doing so.
- 38. National. TV. Direct discrimination.** On 28 July 2011 Channel Four broadcast an episode of the programme "Criminal Minds" depicting a Roma family that performed rites which involved the killing and kidnapping of people and how they encouraged their children to also take part in these practices.
- 39. Seville. Press. Direct discrimination.** On 11 September 2011 in the Seville edition of the ABC newspaper an article was published making numerous allusions to the ethnic group of those involved and using the term "clan" to refer to family groups; the sort of stereotyped language often used by the media.
- 40. Seville. Press. Direct discrimination.** Through the news alert service of the FSG's Documentation Centre we were informed of a story published by the newspaper El Mundo in its Seville issue of 11 September 2011 referring to individuals involved in an assault and attempted robbery as being Roma.
- 41. Vigo. Press. Direct discrimination.** On 15 September 2011 the Faro de Vigo published a story entitled "you'll be sorry if you are at home at dawn" which used the terms "clans" and "Roma law" when referring to several Roma families.
- 42. National. Press. Direct discrimination.** The newspaper El Comercio published a story about the travellers from Ireland and the UK, referring to them as "gypsies" and linking them to kidnappings.

43. **Lugo. Press. Direct discrimination.** The regional newspaper El Progreso ran a story about a neighbourhood and identified the ethnic group of the families involved.
44. **Écija. Press. Direct discrimination.** The regional newspaper El Correo de Andalucía published a story about a violent altercation mentioning that Roma were involved and used inappropriate and stereotyped terms such as "clans".

EL COMERCIO

Fecha: 13/09/2011
Sección: INTERNACIONAL
Páginas: 31



El asentamiento está ubicado en Greenacre, en el condado inglés de Herfordshire. :: AFP

La Policía inglesa investiga una red de esclavos en un campamento gitano

Las 24 personas retenidas trabajaban en casas particulares y en el asfaltado de carreteras sin recibir remuneración alguna

:: LOURDES GÓMEZ

LONDRES. Cuatro gitanos irlandeses fueron interrogados ayer en relación con una supuesta red de esclavitud laboral que habían montado en el campamento de caravanas de Greenacre, en el condado inglés de Herfordshire. La madrugada anterior, unos doscientos agentes de Policía entraron en el asentamiento de 'travellers' (nómadas) y «liberaron» a 24 individuos que vivían en alarmantes condiciones de «suciedad y confinamiento», según explicó el inspector jefe Sean O'Neil. Una mujer en avanzado estado de embarazo, que también fue detenida en la redada, quedó en libertad condicional.

La Policía sospecha que los arrestados obligaban a trabajar fuera del campamento gitano al grupo de varones que habrían «reclutados» en oficinas del paro o en centros de acogida de los 'sin techo'. «Les dicen que ganarán unos 90 euros al día y les garantizan comida y alojamiento. Pero, cuando llegan aquí, les cortan el pelo y los meten en casetas de perros y de caballos o en viejas caravanas. Les obligan a

trabajar sin remuneración y les dan muy pequeñas cantidades de comida», denunció el inspector.

«Propaganda negativa»
De acuerdo con O'Neil, algunos de los liberados llevaban 15 años retenidos por los gitanos y forzados a trabajar arreglando casas privadas o asfaltando carreteras. Pero su teoría comenzó a resquebrajarse ayer por la tarde cuando nueve de los 24 individuos indicaron su negativa a colaborar con la investigación. «Los arrestos son pura basura. La Policía odia a los 'travellers'. Los hombres están aquí porque quieren y reciben su paga», señaló uno de ellos al diario 'The Guardian'. La mayoría de los supuestos rehenes son británicos y otros proceden de Polonia, Letonia y Lituania.

Joseph Jones, presidente del Consejo Gitano, denunció la redada como «propaganda negativa» enfocada a promover rencor contra los gitanos. La operación policial se produce en vísperas del de-

salajo forzoso de un campamento de nómadas irlandeses que habían construido chalés e instalado caravanas en Dale Farm, un terreno de su propiedad ubicado en el distrito de Basildon, en Essex. La actriz Vanessa Redgrave se unió a grupos pro derechos humanos y otros activistas en la campaña de protesta contra una orden colectiva de evicción que afecta a cerca de 50 familias.

«Es imposible tenerlos presos durante quince años en Inglaterra y mandarlos a trabajar en casas de particulares. Es una cortina de humo. Una artimaña de la Policía para desviar la atención del desalojo de Dale Farm y reducir la cantidad de apoyos que estamos recibiendo», denuncia Jones.

El Consejo Gitano calcula que hay 300.000 'travellers' británicos e irlandeses en Reino Unido y más de 100.000 inmigrantes de Europa del Este de la misma minoría étnica. La falta de espacios legales donde instalar las caravanas ha forzado al 60% de los gitanos autóctonos a «abandonar su estilo de vida y habitar en pisos», según explica Jones. Pero en Dale Farm aún se trabaja por alcanzar un compromiso que evite la entrada de las excavadoras y el desahucio de unas 400 personas a partir del día 19. «El estado de ánimo cambia cada día. Pero seguimos proponiendo soluciones alternativas al Ayuntamiento de Basildon», apunta Jones.

Alguno de los rehenes, en su mayoría jóvenes británicos, llevaba más de 15 años secuestrado



- 45. Almería. Press. Direct discrimination.** The newspaper Ideal of Almería ran a story about the arrest of Roma individuals describing them as "Roma clan members".
- 46. Seville. Press. Direct discrimination.** The Seville edition of the free newspaper 20 minutos published a story referring to the arrest of "Roma clan" members.
- 47. Lugo. Press. Direct discrimination.** The newspaper Voz de Lugo ran a story about the release of detainees and mentioned that they were Roma.
- 48. Valencia. Press. Direct discrimination.** The newspaper El Levante reported on a stabbing and noted on three occasions in barely a four-paragraph article that the incident occurred in a "Roma setting". A letter of complaint was sent to the newspaper and we received an apology assuring us that measures had been taken to avoid a recurrence. This same event was treated in a discriminatory manner in several media as can be seen in cases 48, 49, 50, 51 and 52).

IDEAL

ALMERÍA

Fecha: 20/09/2011
Sección: ALMERIA
Páginas: 9

La Policía detiene en Écija a un clan de Almería por peleas armadas

R. M

ÉCIJA. Agentes de la Policía Nacional detuvieron en la localidad Sevillana de Écija a tres individuos de una misma familia, perteneciente al clan de 'Los Jerraos', naturales de Almería, por los delitos de Amenazas, Tenencia de Armas

y Homicidio Doloso protagonizados entre distintos clanes de etnia gitana en el barrio de El Puche.

Los detenidos cuyas iniciales eran S. A.S, de 59 años de edad, J. A.G, de 35 años y F.A.G, de 27 años, se vieron obligados a huir de la ciudad y esconderse tras protagonizar los distintos enfrentamientos armados que tuvieron lugar el pasado 27 de agosto. En la operación llevada a cabo en la localidad de Écija, participaron agentes de la Policía Judicial de esa localidad así como agentes de homicidios de la Comisaría Provincial de Almería.

CASE 44

Detenidos en Écija

Tres hombres han sido detenidos en Écija (Sevilla) como supuestos autores de unos tiroteos entre clanes de etnia gitana en Almería.

Fecha: 20/09/2011
Sección: ANDALUCIA
Páginas: 4

CASE 45

49. **National. Press. Direct discrimination.** La Razon newspaper published the same story: "Man loses life in massive fight". The article claims that the event was related to an argument at the end of a crowded Roma gathering. It goes without saying that mention of the ethnic group of those at the party adds nothing to aid in the understanding of the news item but is decisive in creating and reinforcing prejudices and negative stereotypes damaging the Roma community.

50. **Barcelona. Press. Direct discrimination.** The Catalan edition of El Mundo newspaper reported on the same story about a stabbing indicating that it was "presumably among Roma clans".

51. **Barcelona. Press. Direct discrimination.** The Catalan edition of the newspaper La Razon also published a story under the following headline "Man dies in massive fight after a Roma celebration". Specific mention is made of the fact that it was a Roma celebration and inappropriate terms such as "reyerta" (brawl) which conjures up negative stereotypes were used.

52. **Barcelona. Press. Direct discrimination.** The newspaper La Vanguardia published the same news item entitled: "Man dies after being stabbed at massive fight", mentioning that the incident occurred during a Roma celebration. We consider this information to be unnecessary for the comprehension of the news story and again associates the Roma community with a negative event.

Levante
EL MERCANTIL VALENCIANO

Una fiesta acaba con un muerto a cuchilladas tras una multitudinaria pelea en Barcelona

EFE BARCELONA
■ Una reyerta multitudinaria en la madrugada del domingo acabó en tragedia en Barcelona. Un hombre murió apuñalado en el transcurso de una celebración gitana, según informaron fuentes de la investigación. El homicidio ocurrió hacia las 1.30 horas de la madrugada, en el barrio barcelonés de Hostafrancs, que históricamente alberga a una de las comunidades gitanas más numerosas de la capital catalana.

Al parecer, la pelea se desencadenó por una discusión al final de una multitudinaria fiesta gitana, que llevaba horas celebrándose, aunque todavía se están investigando las causas que motivaron el enfrentamiento.

En el transcurso de la reyerta, en la que participaron numerosos miembros de familias gitanas asistentes al festejo, un hombre de 44 años recibió varias cuchilladas que le dejaron en estado grave, y murió cuando era trasladado al Hospital Clínic de Barcelona.

Los Mossos d'Esquadra, que asumieron la investigación del caso, interrogaron ayer a los testigos de la reyerta para tratar de identificar al autor del apuñalamiento y, al cierre de esta edición no habían practicado ninguna detención. Fuentes municipales insistieron en desvincular el suceso de las fiestas de la Mercè, en las que los barceloneses han llenado las calles por dos noches consecutivas.

Fecha: 26/09/2011
Sección: VALENCIA
Páginas: 22

CASE 47

LA RAZÓN
CATALUÑA

Un hombre muere en una multitudinaria pelea tras una fiesta gitana

La Razón

BARCELONA- Un hombre murió ayer de madrugada al ser apuñalado en una pelea multitudinaria que tuvo lugar en el distrito barcelonés de Sants mientras se celebraba una fiesta gitana.

La reyerta ocurrió hacia las 1.30 horas en la confluencia entre las calles Aliga y Leiva de Barcelona, en el barrio de Hostafrancs, del distrito Sants-Montjuïc, según informaron los Mossos d'Esquadra.

En el transcurso de la pelea, resultó herido por arma blanca uno de los participantes en la reyerta, un hombre de 44 años que quedó en estado muy grave debido a las cuchilladas y murió posteriormente en la ambulancia que le trasladaba al Hospital Clínic de Barcelona.

Los Mossos d'Esquadra han abierto una investigación para esclarecer el origen de la pelea e identificar al autor del apuñalamiento mortal, aunque por el momento no se han producido detenciones.

A la Policía Autonómica no le consta que otras personas resultaran heridas en la pelea multitudinaria que al parecer, se desencadenó por una discusión al final de una multitudinaria fiesta gitana, que llevaba horas celebrándose. Todo indica que en la multitudinaria pelea participaron numerosos miembros de dos familias gitanas asistentes al festejo.

Fecha: 26/09/2011
Sección: CATALUÑA
Páginas: 3

CASE 48



53. Valencia. Press. Direct discrimination. The newspaper Las Provincias of Valencia ran this same story about a stabbing in Barcelona mentioning that it apparently occurred during a Roma celebration since at the time of the event a witness saw many people of this ethnic group in a bar .

54. Seville. Press. Direct discrimination. The newspaper ABC published an article in its regional edition about a Roma man whose youngest daughter had disappeared. For no apparent reason the article went on to describe the situation of unemployment and violence in the neighbourhood where he noted that many Roma families reside.

55. National. Internet. Direct discrimination. A Facebook page called "You're more useless than a gypsy without cousins" was created. Despite having been reported to the Facebook helpline the page, with over 47,000 followers today, remains open.

56. Ourense. Press. Direct discrimination. El Faro de Vigo (newspaper) published an article entitled "A wedding with almonds on top" allegedly describing a Roma wedding containing innumerable stereotypes about this community and its customs.

57. National. Roma Community. Press. Direct discrimination.

The online edition of the ABC (newspaper) published a story about a police union acting as a private prosecutor against a group of Roma. Again, mention is made of this ethnic group which is irrelevant information for the understanding of the news story.

58. Salamanca. Press. Direct discrimination. La Gaceta Regional newspaper of Salamanca ran a story entitled "Roma camp adjacent to clinic" accompanied by a photograph of a family and a number of details about that family and expressing prejudices against the Roma community in general.

59. Granada. Press. Direct discrimination. A Canal Sur radio programme called "Andalusia's moment" opened with a slogan used by a certain football enthusiasts to welcome the opposing fans: "Citizens of Seville, junkies and Gypsies." None of the guests on the radio programme said anything about the inappropriateness of this slogan in relation to the Roma community.

60. Majorca. Press. Direct discrimination. The newspaper Ultima Hora published a story under the headline "A group of Roma assaults a customer of Punt de Joc de Son Ferriol". In this case, mention of the ethnic group of the people involved in the events is unnecessary to comprehend the story but does foster the social rejection of the Roma community.

61. Pontevedra. Press. Direct discrimination. An article in the Diario de Pontevedra entitled "Law enforcement officers end an altercation at La Merced Clinic" reported on a dispute at a hospital and mentioned the ethnic group of those involved.



CASE 51

62. Madrid Press. Direct discrimination. The Madrid section of the newspaper ABC ran an article entitled “Illegal bazaar in Atocha” (centre-city Madrid) that made references to the alleged Roma ethnicity of the mobile traders of an illegal market. Once again, this minority is being associated with unlawful activity.

63. Murcia. Press. Direct discrimination. La Verdad, a Murcia newspaper, ran an article entitled “Twenty-two arrests of members of a network that organised fake weddings between Nigerians and Roma”. Again, mention of ethnic group is superfluous information. It further stated that these people were living on the fringes of society thus reinforcing the negative image of the Roma community as a whole.

64. National. TV. Direct discrimination. The national TV channel Telecinco, broadcasted a programme called “Tú sí que vales”. On this occasion, a member of the jury blasted Roma people suggesting, among other things, that they are criminals and live off of subsidies. The FSG sent a letter to the television station but received no reply.

65. Mérida. Press. Direct discrimination. El Periódico of Extremadura ran a news story entitled “Investigation into a shooting with 15 arrests and 12 weapons confiscated” which used the terms “Roma clans” and “Roam Law” in its description of the arrests.

66. Barcelona. Press. Direct discrimination. El Periódico, a Catalan newspaper, ran a story called “Two youth arrested for the death of a man in a fight at a Roma celebration”. It provided unnecessary details about an altercation that took place at a Roma celebration and used inappropriate terms such as reyerta (brawl).

67. Barcelona. Press. Direct discrimination. Aras Criature (supplement to the Ara newspaper), published an opinion piece by a professor who argued that aid for the educational mainstreaming of the Roma community is useless and added many negative stereotypes about the Roma community.

ABC

Fecha: 08/10/2011
Sección: MADRID
Páginas: 44



Decenas de vendedores, clientes y turistas se agolpaban ayer junto a la estación a las 14.30 FOTOS: JOSÉ ALFONSO

Zoco ilegal en pleno Atocha

► Decenas de gitanos rumanos venden con impunidad en el exterior de la estación objetos robados

CARLOS HIDALGO
MADRID

La imagen que se lleva el visitante recién llegado al salir de la estación de trenes de Atocha podría ser más cercana a un país subdesarrollado que a la de la capital de España. Porque ayer, pasadas las dos y media de la tarde, esa era la postal que dejaban en plena Glorieta del Emperador Carlos V decenas de personas, la mayoría gitanos rumanos. Sobre improvisadas mantas, vendían toda suerte de objetos de más que dudosa procedencia y en un estado a veces lamentable.

Es el último nuevo zoco o mercadillo. Si antes los vendedores ilegales se instalaban en el otro lado de la glorieta de Atocha, la más cercana al Museo Reina Sofía, ahora han buscado una nueva ubicación. El punto concreto es la acera de la fachada principal de la estación de Atocha, desde el esquinazo de la calle de Méndez Alva-



La mercancía está muy deteriorada

ro. Se trata del límite del distrito de Arganzuela respecto al de Centro. Es una zona de paso constante, pese a haber estado en obra los últimos años. De esta manera, los vendedores ilegales tratan de captar clientela no solo de los viandantes habituales, sino de las personas que, maleta en mano, llegan o se van de Madrid.

Sobre una de los improvisados «escaparates», ayer reposaban unos zapatos de mujer, claramente usados, y un bolso de aún más dudoso origen. Todo de muy poca calidad. Alrededor, los potenciales compradores, la mayoría también de procedencia extranjera. Los puestos son pequeños, pero muy numerosos, y se distribuyen a ambos lados de una misma acera, con total impunidad. También hay telas, peluches, unos botines... Como si los vendedores hubiesen vaciado sus trasteros.

El paseo del «mercadillo»

Los mercadillos pirata siempre han existido, pero parece que, al calor de la crisis económica, se están multiplicando como setas. A este de Atocha y al del Reina Sofía se une como si de un paseo de la venta ilegal se tratara, otro zoco: el que se instala en un extremo de Ribera de Curtidores con la glorieta de Embajadores. Es el «rastros» fantasma que, cuando hay aún oscuridad, toma el barrio de Embajadores hasta que comienza a salir el sol. Ahí se venden también productos alimentarios.

Es una estampa similar a la que se contempla en el Buivar de Vallecas, zona socialmente degradada, donde los toxicómanos venden a ancianos comida robada en los supermercados del barrio. En el otro extremo de Vallecas, en el barrio de Santa Eugenia, cada martes se mezclan con los vendedores ambulantes legales grupos de personas que ofrecen de todo a los viandantes: sobres con jamón robados de comercios de la zona, pero también latas de atún de gran tamaño y peso, e incluso patatas por unidades.

CASE 61



68. **National. Press. Direct discrimination.** The digital edition of the newspaper La Razon published a story called "The Civil Guard attacks organised crime" that included the following information: "[...] place of residence of Roma clans involved in organised crime." Statements such as these seriously damage the image of the Roma community.

el Periódico

EN HOSTAFRANCS

Detenidos dos jóvenes por la muerte de un hombre en una fiesta gitana

EL PERIÓDICO BARCELONA

Los Mossos han detenido a dos presuntos autores del apuñalamiento que el 25 de septiembre acabó con la vida de un hombre de 44 años durante una reyerta en una fiesta gitana en el barrio de Hostafrancs, según informó ayer la policía. Los detenidos, Pablo C.G., de 18 años, y Josua G. M., de 21, han pasado a disposición del juzgado de instrucción que lleva el caso, que ha decretado el ingreso en prisión preventiva del mayor de ellos.

La reyerta ocurrió la madrugada del 25 de septiembre en un bar

La reyerta ocurrió durante la madrugada del 25 de septiembre, en un bar donde dos familias gitanas del barrio estaban festejando una petición de mano. Los agresores se presentaron en la fiesta, que llevaba horas celebrándose, e hirieron mortalmente con una arma blanca a un hombre de 44 años, que falleció durante su traslado al Hospital Clínic. El padre del joven que se prometía se implicó en la pelea y también resultó herido.

Pese a las detenciones, la policía autonómica, mantiene abierta la investigación para aclarar las circunstancias en las que se produjo el apuñalamiento mortal y no descarta nuevos arrestos en relación con el homicidio. ■

Fecha: 12/10/2011
Sección: GRAN BARCELONA
Páginas: 32

CASE 65

a r a criatures

Fora de classe

Xavier Gual

Els alumnes gitanos

Més enllà de tòpics i prejudicis, treballar amb alumnes que formen part del col·lectiu gitano és força complicat. Amb ells de vegades m'ho he passat bé, i m'han fet riure amb els seus estirabots, però també m'han tret de polleguera quan han infringit per sistema les normes del centre. Amb ells tot és imprevisible i de poc serveix planificar. La majoria escapen completament a les convencions que estableix un centre educatiu, com per exemple venir a primera hora del matí i dur el material de treball. Això no impedeix que aprenguin coses importants o que també puguin comportar-se de manera educada i receptiva. En tot cas el que faran només ho decidiran ells, els docents més aviat no. Com a professor, de seguida n'ets conscient. Quan volen poden ser molt simpàtics, o poden ignorar-te i sortir de l'aula perquè necessiten fer pipí i beure aigua a la font. Quan volen et fan cas. Quan no volen, no. Si els ve de gust canten i piquen de mans encara que s'estigui al mig d'una explicació. També intenten enredar-te amb les seves històries. Fan els deures el dia que menys t'ho esperes, potser per descol·locar-te. Mantenen la convicció que són lliures i indomables davant d'una societat infeliç, emprisonada per les obligacions que s'autoimposa. Admiro aquesta convicció ingènua i anàrquica, però és del tot incompatible amb la feina que m'obliguen a fer a l'aula. Avencos, ben pocs. Les noies sovint no tenen elecció, i difícilment segueixen escolaritzades més enllà dels setze anys. Els nois abandonen les aules molt abans, entre expulsions i escapades. En realitat els seus pares van fer el mateix i quan els truques et donen la raó per no ofendre't. Un director em va dir que amb la colla d'anys que joia que estava al capdavant del centre només una alumna gitana havia acabat amb èxit els estudis obligatoris i s'havia atrevit amb el batxillerat. En la resta de casos tot esforç havia estat inútil.

Trobar la fórmula

La veritat és que el futur fora de les aules se'ls està complicant a un ritme vertiginós. Un educador social em comentava la preocupació dels gitanos per la proliferació de botigues regentades per xinesos, marroquins i pakistanesos, que els estan ofegant els seus negocis tradicionals: els mercats i la recollida de ferralla. La nova immigració està assimilant els canvis més de pressa que ells. Seria massa fàcil limitar-me a criticar-los com el pitjor tipus d'alumne que et pots trobar. Però no tindria cap mèrit fer-ho, ni la intenció d'aquest article és la de faltat-los al respecte. Un respecte, d'altra banda, que sempre he mantingut davant d'ells. A Catalunya, però, hi ha prou alumnes gitanos per plantejar si hi ha alguna fórmula millor perquè puguin estar preparats per a la vida que els espera. Tots els plans educatius fracassen davant d'un alumnat que no vol ni entrar en el joc d'aprendre. En el cas dels gitanos crec que estem davant d'un col·lectiu encara impermeable a tot el que provinguí del món dels països. Segurament és tanta la preocupació per preservar els seus orígens ancestrals que potser temen que als instituts els canviarem les criatures i les farem a la nostra manera. Més d'un professor ha comentat amb ironia que el que caldria fer són centres específics per a gitanos. No per tenir-los allunyats de la resta, sinó perquè assolissin les competències bàsiques (llegir, escriure, sumar, restar...), encara que fos a la seva manera i amb els seus mestres. Per molt que ens entestem a domar-los amb els sistemes tradicionals, l'experiència i les xifres demostren que amb aquest col·lectiu s'ha fracassat sempre. Els esforços de tutors, psicopedagogs i mediadors són en va. He posat excel·lents de català a alumnes marroquins i latinoamericans, però els gitanos no es presenten mai a l'examen. Per tant, qualsevol nova proposta no ho empitjoraria. Que som diferents és tan obvi com que tenim els mateixos drets i deures. Ara bé, en matèria d'ensenyament sovint sorgeix el dubte sobre si tothom és compatible amb un sistema només ideat per països i destinat a les necessitats dels països del segle XXI.

Xavier Gual és escriptor i professor de secundària



Fecha: 08/10/2011
Sección: SUPLEMENTO
Páginas: 11

CASE 66

69. **National. Press. Direct discrimination.** The online edition of El Pais newspaper published an article entitled "Brutal beating of the occupants of a car on Madrid's M-30 motorway" recounting a confrontation between a group of people and providing details of the ethnic and national origin of those involved.
70. **National. Internet. Direct discrimination.** Highly inappropriate (racist, prejudiced and discriminatory) content was found on a website called Frikipedia under the entry for the word "Gypsy". We wrote a letter to the Web page administrator but received no response.

EL PAÍS.COM España Viernes, 28/10/2011, 13:05 h

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Brutal paliza a los ocupantes de un coche en la M-30 de Madrid

Dos coches persiguen durante kilómetros a otro y sus ocho ocupantes golpean y roban a tres viajeros bajo la Plaza de España

EL PAÍS - Madrid - 27/10/2011

Vota Resultado ★★★★★ 454 votos 73 Recomendar 255

Les persiguieron con dos coches por la M-30 de Madrid durante varios kilómetros después de recriminarles una maniobra peligrosa. Luego cortaron el paso al automóvil, se bajaron (eran ocho) y la emprendieron a golpes con los ocupantes del coche cuyos movimientos no les habían gustado. Las víctimas son tres primos españoles de origen marroquí y de unos 20 años de edad, dos chicos y una chica que iba detrás, a la que no le pegaron. A uno de ellos le causaron una herida leve de arma blanca muy cerca del riñón -sin más consecuencia que una sutura en el hospital- y le rompieron los dientes, según un portavoz de la Policía Nacional.

(...)

Los responsables del linchamiento son un grupo de chicos gitanos de familias de los Ayuntamientos madrileños de Rivas y Arganda del Rey. Los ocho se bajaron de sus dos coches después de bloquearle el paso al otro e inmediatamente la emprendieron a golpes con ellos, acuchillaron a uno cerca del riñón con un arma blanca y les robaron lo que pudieron: un móvil, una cartera con 250 euros y un bolso de mano. Uno de los detenidos tiene antecedentes penales por un hecho similar, según la policía.



Agresión en la M-30
VIDEO - AYUNTAMIENTO DE MADRID - 27-10-2011
Las cámaras de seguridad de la M-30 registra la agresión de ocho personas a los tres ocupantes de un vehículo que les habían recriminado una maniobra peligrosa.

CASE 68



LA WIKIPEDIA

navegación

- Portada
- Portal de la comunidad
- Blog oficioso
- Cambios recientes
- Página aleatoria
- Ayuda
- Apoyo al proyecto
- Chat frikipedico
- Foro
- Correo
- Tienda de camisetas

proyectos

- Adopción
- Destacados
- Frikionario
- Frikilibros
- Gulias
- El Piráidico

anuncios

Toyota Yaris Ahora por 9.990 €.*

75

Inicio sesión / crear cuenta

Inicio sesión con facebook connect

página discusión ver fuente historial

Gitano

Me gusta A 425 personas les gusta esto.

NOTA INFORMATIVA DEL ADMINISTRADOR DE FRIKIPEDIA:

- Este artículo tiene una intención humorística y se basa en generalizar tópicos y falsos mitos sobre los gitanos.
- No debe interpretarse nunca como una descripción fiel y veraz del pueblo gitano, ya que los personajes descritos aquí son una pequeña minoría que no representa a la gran mayoría del pueblo gitano.
- En todas las etnias y pueblos del mundo hay gente normal, gente buena y gente mala. Los gitanos no son una excepción: entre ellos también hay gente normal, gente buena y gente mala.
- En este artículo solamente se menciona a esa minoría que son la gente mala y se obvia por completo a la mayoría de gente normal y buena.
- Para obtener información completa y veraz sobre los gitanos, por favor acudan a la Wikipedia o a cualquier otra enciclopedia de verdad. La Frikipedia es simplemente una parodia, no es ni pretende ser una enciclopedia seria.

* Parece que los gitanos y gitanas solamente nacieron en el mundo para ser ladrones: nacen de padres ladrones, crianse con ladrones, estudian para ladrones y, finalmente, salen con ser ladrones corrientes y molientes a todo ruedo; y la gana del hurtar y el hurtar son en ellos como accidentes inseparables, que no se quitan sino con la muerte. *

- Fragmento de la novela "La Gitanilla" de Miguel de Cervantes Saavedra

Sujetos de piel morena con un poder social equiparable al de los faraones de Alejandría, equipados para la guerrilla callejera, que se caracterizan por ir siempre acompañados de, al menos, otros dos gitanos más, lo cual los convierte en un "kipo" o "panda", listos para plantar cara a cualquier pareja de la Guardia Civil.

Todos los gitanos son primos entre sí, según dice su evangelio, y si agredes a alguno, aunque sea en defensa propia (99% de probabilidades), te encontrarás a todos sus primos dispuestos a atacarte con cualquier utensilio que tengan a mano (normalmente palos de escobas y navajas, aunque ahora está de moda usar las pistolas de los maderos). Proviene de la región de Egipto, de ahí su nombre, egipcianos.

Tres de cada cinco canis creen ser gitanos o mestizos (los dos restantes sueñan toda su vida con serio).

Son fácilmente distinguibles del resto de habitantes de la ciudad por su tez morena, su inconfundible aroma, su equipo de joyas, colgantes, pendientes y demás trastos imaginables de oro o latón, y su especial manera de hablar (language: ogrish). (Ejemplo: M.A. el del Equipo A).

De la serie tribus urbanas del mundo: Gitano

Ejemplo de la tribu

EL PRINCEPE GITANO

Quisquon

POINTE LA PAJA FRANCISCO
ZIGUETA DE LA ALBUQUERCA
Y JOSÉ
EL BARRIO
LA TURQUESA
DE LA GACETA
MEDIO MARRAÑA
LA WIKIPEDIA
MESTIZAMA
MESTIZAMA
MESTIZAMA

CASE 69

- 71. National. Press. Direct discrimination.** El Mundo newspaper ran a story called "Armed robbery at two clinics; thieves make off with money". The article quoted witnesses stating that the robber "looked Roma".
- 72. Granada. Press. Direct discrimination.** El Ideal newspaper of Granada ran a story with the headline "A fight between two family clans ends with a shooting in the Loja neighbourhood". The article makes it very clear that the event took place in a neighbourhood of Granada where Roma from Seville had settled.
- 73. National. Press. Direct discrimination.** An opinion column in the newspaper La Gaceta used the unfortunate phrase "It is said that the Roma do not want 'good principles' for their children".

- 74. Galicia. Press. Direct discrimination.** The Galician edition of El Pais newspaper reported the incident "Two policemen and a woman injured in a chase" and published the full name of the man involved, his place of residence and ethnic origin and other background information.
- 75. National. Press. Direct discrimination.** The publication Ultima Hora ran a story under the headline "Many Roma come out to cheer their hero, a young man from Palma accused of drug trafficking at his release from prison yesterday". In addition to mentioning ethnicity in the headline of the story, the article itself describes the people there to welcome him as Roma driving luxury automobiles. Comments and judgements like these enhance rejection of all members of this minority group.

LA GACETA

...LOS PRINCIPIOS



Fecha: 11/11/2011
Sección: OPINION
Páginas: 2

CÓMPLICES

Joaquín Leguina

Buenos y malos principios

Louise Bagshawe nació dentro de una familia católica y londinense. Su padre era un prestigioso bróker y su madre una conocida liberal-demócrata. Louise fue enviada a un colegio de monjas católicas de estricta disciplina donde destacó como alumna ejemplar. Al salir de aquellas aulas y antes de acabar sus estudios superiores, Louise se casó con un magnate, Anthony LoCicero, con quien, antes del divorcio, tuvo tres hijos. "Yo entonces escribía por las noches, dando rienda suelta a mi imaginación", ha confesado ella.

Se dice que los gitanos no quieren "buenos principios" para sus hijos, pero esa idea no suele ser compartida por los británicos, lo cual no ha impedido que de allí hayan salido grandes

Se dice que los gitanos no quieren "buenos principios" para sus hijos

perdularios. Quizá presa del deseo gitano de los "malos principios", tras el divorcio, Louise se lanzó a la vida rockera y noctámbula ("la droga forma parte de mi aprendizaje"). En ese ambiente conoció a muchos músicos... y a Peter Mensch, el mánager de Metallica y Red Chili Peppers, con quien acabó casándose. A los 24 años publicó su primera novela, de un género llamado *chick lit* (novelas eróticas para jovencitas)... y ha seguido escribiendo a un ritmo de una cada año, con un éxito envidiable.

Formando parte de *las guapas de Cameron* (*Cameron's cuties*), ahora es diputada y en ese papel la hemos visto en los Comunes, cantándole las cuarenta a Murdoch cuando este acudió para dar cuenta de sus trapacerías.

En aquellos días (¡qué casualidad!) Louise recibió la llamada de un periodista que dijo tener una foto de ella en un bar junto al violinista Nigel Kennedy, poniéndose los dos hasta las cejas de coca. En lugar de negarlo, ella contestó: "¿Sólo una foto? Podrías tener cientos". Rockera y madre amatísima, escritora de éxito y diputada... nadie podrá dudar de que esta joven (40 años) no ha perdido el tiempo.

CASE 72



- 76. Murcia. Press. Direct discrimination.** La Verdad, a Murcia newspaper, unnecessarily mentioned that the person involved in the incident "Alleged aggressor of a physician in downtown Santa Lucia arrested" was Roma. 76. Extremadura. Press. Direct discrimination. El Periódico of Extremadura reported on an incident entitled "Arrested for driving without a license three times in five months" and stated that the person in question was Roma.
- 77. Guadalajara. Internet. Direct discrimination.** FSG headquarters in Guadalajara received an email which read as follows: "And yet another year has gone by and here we are putting up with your friends who torture us all day long with their firecrackers, not to mention all the rubbish those pigs produce. Don't worry about us. We'll just keep on working like slaves so that our tax money can go to providing that scum with everything they need so that they can continue to make our lives miserable. But we only have ourselves to blame for not having finished them off centuries ago." We would note that back in 2009 we received an equally discriminatory e-mail at that same account and from the same person. The Area of Equality filed a complaint with the cyber-crime police.

LA VERDAD

MURCIA

Detienen al presunto agresor del médico en el centro Santa Lucía

La Policía ha arrestado de oficio a José N.S., de 31 años y vecino de Los Mateos, pese a que el facultativo no había presentado denuncia

EP / LV

CARTAGENA. Agentes de la Policía Nacional detuvieron ayer a José N.S., de 31 años, como presunto autor de la agresión a un médico del centro de Salud de Santa Lucía. Al parecer, el sospechoso estaba descontento con el trato recibido en el consultorio por su esposa, que está embarazada. El facultativo sufrió la agresión en las inmediaciones del ambulatorio el pasado día 7. El familiar de una de sus pacientes se le acercó y le propinó varios puñetazos en el cuerpo y en la cara, así como patadas.

El médico tuvo que ser atendido de los hematomas y heridas que le ocasionó el presunto agresor, y con su parte de lesiones presentó la correspondiente denuncia en la Comisaría. Según informó ésta en un comunicado, miembros

del Grupo III de Policía Judicial iniciaron una investigación que finalizó con la detención de este individuo, quien carece de antecedentes penales.

Al detenido se le imputa un delito de atentado a funcionario público a través de unas diligencias que han sido remitidas ya al juzgado de guardia. Según fuentes del caso, a pesar de que la víctima aún no había presentado ayer ninguna denuncia, las autoridades policiales han decidido actuar de oficio. Según testimonios recogidos entre vecinos de la zona y personas relacionadas con el centro de salud, dos días después de atender a la mujer el médico se vio sorprendido por los insultos, los gritos y la agresión física. Según las mismas fuentes, el presunto agresor, de etnia gitana, se dio a la fuga tras la paliza al facultativo. El pasado año los sanitarios murcianos presentaron 290 denuncias por agresiones físicas o verbales en su puesto de trabajo. Desde que en el año 2006 se puso en marcha el registro informático de agresiones, han sido más de un millar los profesionales agredidos en la Región.

Fecha: 15/12/2011
Sección: REGION
Páginas: 25

CASE 75

----- Mensaje original -----

Asunto: ¡ Ya está bien !
De: "Miriam Camarero" <[REDACTED]>
Fecha: Sab, 1 de Enero de 2011, 1:27 pm
Para: fsgguadalajara@gitanos.org
fsgguadalajara@gitanos.org

Y como no un año más seguimos aguantando a la basura de vuestros amigos torturándonos todo el día con los petardos, sin contar la basura de barrio en la que vivimos gracias a esos cerdos. No pasa nada seguiremos trabajando como perros para que con nuestro dinero se de a esa basura todo lo que quieran y nos sigan haciendo la vida imposible. Pero la culpa la tenemos nosotros por no haber acabado con esa gentuza hace siglos.

----- Mensaje original -----

Asunto: Basta Ya!
De: "Miriam Camarero" <[REDACTED]>
Fecha: Sab, 26 de Diciembre de 2009, 10:45 am
Para: fsgguadalajara@gitanos.org

...y seguimos aguantando a la basura de vuestros amigos los gitanos todo el santo día tirando petardos hasta las mil de la noche. Que importa si tenemos que madrugar, o si nuestros hijos no pueden estudiar o los bebes se despiertan asustados; no pasa nada a esos hijos de puta hay que dejarles que hagan lo que quieran, ya nos jodemos los que trabajamos como animales para que luego se de a esa gentuza todo lo que quieran con nuestro dinero. Ya sabemos que en este país tienen más derechos la basura que los que mantenemos el país. Luego quereis que no seamos racistas cuando son esos hijos de puta los que no respetan nuestro descanso; les gusta hacer lo que les sale de los cojones y eso no va a cambiar nunca. Además de que no hay políticos con cojones que echen a esa basura de una vez de nuestra pocilga de barrio que ensucian esos cerdos. ¡ Que pena de Hitler que hubiese entrado en España y hubiese acabado con esa basura !

CASE 77



78. **National. Internet. Direct discrimination.** The FSG came across an Internet blog justifying different acts of persecution and extermination that Roma have suffered throughout history. The FSG sent notification to the computer crimes unit of the Civil Guard.

Compartir Informar sobre mal uso Siguiente blog»

Manduli



miércoles 13 de abril de 2011

Putos gitanos.



Putos, sí. Con todas las letras. Y generalizo. ¡Claro que generalizo! Eso sí, cuando digo 'gitanos' me refiero a los gitanos-gitanos. No a las personas de etnia gitana que se comportan como personas, sino a los típicos gitanos de la chatarra y el trapicheo. Los que antes eran gitanos de carromato, vaya, y hoy son de fragoneta. Si existe otro término en castellano que designe a este tipo de gitanos, prometo dejar de referirme a ellos como 'gitanos'. Mientras tanto, seguiré diciendo: putos gitanos!

Dice un refrán que *cuando el río suena, agua lleva*. Otro dice que *algo tendrá el agua cuando la bendicen*. Y los gitanos han despertado el recelo de los payos desde tiempos inmemoriales. La gente se ha referido a ellos como 'putos gitanos' desde tiempos de Maricastaña. Han sido un pueblo maldito y perseguido desde que se tiene constancia de su existencia. ¿Casualidad? No lo creo. ¿Racismo? Puede, pero... ¿por qué precisamente ellos, y no otros? Algo tendrán que los distinga y los haga acreedores a ese rechazo tan generalizado, digo yo.

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GOBIERNO DE ESPAÑA MINISTERIO DEL INTERIOR GUARDIA CIVIL

FORMULARIO DE INFORMACIÓN CIUDADANA

Ninguno de los datos personales solicitados es obligatorio.

Si los facilita, en caso de que resulte necesario aclarar o ampliar la noticia, se contactará primero a través de correo electrónico y después por teléfono.

Si no resultaran necesarios serán inmediatamente eliminados, una vez analizada la información.

Localidad:

Provincia:

Teléfono:

Correo electrónico:

Adjuntar archivo: (2 Mb)

Exponga todos los detalles del hecho:

Se trata de una conducta excluyente y xenófoba de corte populista y clasista en la que se difunden mensajes alarmistas equiparando peligrosamente delincuencia con personas de etnia gitana, se generan y difunden todo tipo de rumores o bulos siempre vinculados a la población gitana con el fin de conseguir su estigmatización.

Son conductas que sin crear un peligro real e inminente atentan directamente contra la convivencia y la pluralidad de nuestra sociedad y están orientadas a generar entre la población general, muy sensible en tiempos de crisis económica, sentimientos de exclusión, rechazo e discriminación, creando una carga de hostilidad contra personas o grupos por su origen racial.

Por todo lo expuesto nos hayamos frente a un delito de provocación al odio, la violencia y la discriminación del ART 510 del código penal.

Que se apoye en las siguientes normas internacionales suscritas por nuestro país:

Art. 20 del Pacto Internacional de Derechos Civiles y Politicos de 1611/1966 suscrito

Recommend 3k

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CASE 78



- 4. Álava. Direct discrimination.** Two Roma women were refused entry into a bar by order of one of the owners who claimed that in the past they had caused fights (which is not true). The women pointed out that only ethnic minorities were charged an admission fee. They requested to speak to the owner but were ignored. In the end they requested a complaint form which they received but the area where the business details should have been was left blank. The FSG helped them to file a complaint before the competent body.
- 5. Murcia. Direct discrimination.** A Roma family requested a room at a funeral home. On the phone they were told that there would be no problem but when family members started to arrive the funeral home employees informed them that there was no room free but this apparently was not true since it was midnight and all the rooms were empty. The employee made several phone calls but told them that there was nothing he could do and that he was just following orders.
- 6. Vigo. Direct discrimination.** A sign was placed on the main entrance to a pharmacy in a neighbourhood of Vigo featuring a security camera photograph taken from inside the establishment clearly showing two Roma women. The following caption appeared next to the photograph: "NO ENTRY. CAUTION!!! THEY HAVE STICKY FINGERS." Thanks to Foundation worker mediation, the sign was taken down.
- 7. Granada. Direct discrimination.** A group of Roma people tried to enter an entertainment facility in Granada but the doorman denied them access telling them that his boss did not want any Roma in his establishment. The people affected told us they felt humiliated because this happened in the presence of others waiting to go inside. They reported the incident to the police.
- 8. Cáceres. Direct discrimination.** Two Roma women were expelled from an establishment and the doorman refused them entry on several other occasions without explaining why. The two young girls asked for the complaint form and took their complaint to the Consumer Protection Office.



Cases of discrimination in the area of citizen security

- 1. Seville. Direct discrimination and physical assault.** After dropping off his daughter at the school entrance, a Roma man stayed to chat with two friends of the family. Then, three Civil Guard officers got out of their vehicle and asked to see their ID cards. The victim refused, arguing that they already know who he was because he lives in town and was just dropping off his daughter at school. One of the officers then took out his baton and started assaulting the man in front of two witnesses. The victim was admitted to the hospital where he was guarded. The Civil Guard argued that the victim started the aggression but the two witnesses did not see it that way. The man requested a court appointed lawyer for the criminal charges against him and contacted the FSG for legal counsel and support for the discrimination suffered.
- 2. Madrid. Direct discrimination and verbal assault.** A young Romanian Roma man needed legal assistance at trial for resistance and disobedience to authority. According to the facts of the case, one night a National Police patrol car pulled up to a bar where this person was sitting at the bar. Police searched the bartender and a few customers. The young man, believing that they had taken money from his wallet which was sitting on the bar, challenged the officers who then handcuffed him and took him to the police station. At the entrance to the station he was beaten and insulted by four officers for two hours. The FSG works in collaboration with the Rais Foundation which had helped the young man on other occasions and we therefore offered him legal assistance. In the end the victim decided not to file a complaint and accept the charges made against him for fear of reprisals.
- 3. Alicante. Direct discrimination.** A Roma man went to court to answer for a complaint filed against him. The officer treated him disparagingly and in an insulting tone asked him if could read to which he responded in the affirmative and asked why. The officer replied saying that Roma can't read or write. The young person decided against reporting the incident since there was an open case against him.
- 4. Murcia. Direct discrimination and physical assault.** A Roma man was in the Murcia bullring watching a charity bullfight. A policeman guarding the area spoke to him in a disrespectful manner and then expelled him from the place alleging some sort of antisocial behaviour which he was not guilty of. The young man asked for his badge number and the officer responded by punching him in the chest and refusing to give it to him. A companion of the victim who was still inside the bullring approached them to ask what was the matter to which the officer responded "shut up or you'll be taken away as well". His companion left with his friend. The police officer then asked the second man for his ID card. When the second man asked why the officer responded that when he was charged he would be informed why and would also be given the officer's badge number.
- 5. Zaragoza. Direct discrimination and physical assault.** A Roma mother was filing a complaint for alleged abuse suffered by her young daughter and attempted to approach the alleged perpetrator but the latter fled. The mother considered this a relevant fact to put in the police report but when she went to the police station to report it the officer told her that this was not important because "it is normal that he would run away because you're Roma".
- 6. Jaen. Direct discrimination.** The Civil Guard stopped one of the workers from our Jaen office and asked him to state his ethnic group. The Area of Equality wrote a letter to the Head of the Civil Guard and, after obtaining an unsatisfactory response, lodged a complaint with the Andalusian Ombudsman. After several months of work and submissions, the claim was shelved.



- 7. Valencia. Direct discrimination.** A Romanian Roma man was sitting on a bench on a public street outside a hospital waiting to be treated. A municipal police officer approached him, asked to see his documentation and inquired what he was doing there. The man explained but the officer said that he didn't believe him and took down his details. Two months later the man received three fines for offences he never committed, two on that very day and all three signed by the same officer. The FSG gave the man legal advice and filed the appropriate submissions and appeals.

- 8. Murcia. Direct discrimination.** Two Roma sisters were shopping in a store when two national police ask them to leave the premises. One officer asked if they lived in a marginal neighbourhood of the city, asked to see their ID cards and tried to look in the bags to check the contents and sales receipts. They asked them offensive questions both in terms of the tone used and their manners. They claimed that this was a routine check adding that they take an especially close look at Roma people since "You are the ones that do the most stealing". The police found that everything was in order and left making no apology.



Cases of discrimination in employment

- 1. Jaen. Direct discrimination.** A young Roma man had been working for months for a construction company. One day the subject of racism and the Roma community came up in a discussion with his mates. The young man very matter-of-factly announced that he was Roma. One of the foreman overheard this and the next day the young man was sacked with no explanation. The FSG looked into the case of alleged unfair dismissal but the young man abandoned the quest for fear of future repercussions if he filed a complaint against the company.
- 2. Alicante. Direct discrimination.** A company approached the FSG's employment programme to request two women candidates for a job opening. The enterprise mediator spoke with the manager of the company regarding one of the candidates and was told that she would not be selected because she's a Romanian Roma and "we know that they do not want to work". Following intense awareness-raising work she managed to keep that woman in the selection process.
- 3. Linares-Jaén. Direct discrimination.** A company contacted a woman to give her a job interview. On the day of the interview the candidates were called in, even those who had arrived later than her, until she was the only one left. After the long wait she was given a questionnaire to fill out but no one gave her any instructions as they had with the other candidates. Without an interview they told her they would call which they never did.
- 4. Jaen. Direct discrimination.** A Roma man working in a restaurant in the capital saw a group of Roma entering the premises. The group had rented a room for a celebration. The restaurant owner made derogatory remarks to the worker about the Roma people but the worker defended the Roma and told his boss that he was also Roma. The next day his boss sacked him.
- 5. Asturias. Direct discrimination.** A woman was hired for a sale at a supermarket. When she went to the workplace they told her that the sale had been cancelled. Tension arose when she asked for an explanation the result of which was two legal proceedings, one of them for discriminatory treatment towards the woman.
- 6. Jaen. Direct discrimination.** A homeowner's association refused to hire a Roma man as the doorman. The association president, together with the Roma Foundation, tried to solve the problem but the neighbours wouldn't budge.
- 7. Jaen. Direct discrimination by association.** Through a friend, a woman left her résumé at an ice cream parlour where they needed workers. The owner looked at her application but upon seeing her Roma surnames said he wouldn't hire her.
- 8. Malaga. Direct discrimination.** A Roma woman was doing an internship at a mall through a training agreement. The reports on the worker was quite good and she was informed of the company's desire to hire her once she completed her internship. At the end of the internship, a customer who had forgotten her bag in the fitting room accused the intern of stealing. This resulted in the early termination of the woman's internship.
- 9. Malaga. Direct discrimination.** At the end of her course, one of our programme participants training as a chamber maid was told by the head of human resources that if there were any openings she would be invited to apply. When it came time to fill out application forms for a possible contract and the department heads realised that the young woman was Romanian, the job offer vanished and the company began to speak of drawbacks and problems. In the end she was not hired.



- 10. Almería. Direct discrimination.** A young Roma man tried to leave his résumé in a cafe where waiters were needed but the manager told him they do not accept résumés from Roma. The young man was so shocked at the response that he did not react and left without saying a word. He told the Roma Foundation about it a long time later when it was too late to do anything about it.
- 11. Mérida. Direct discrimination.** During a job interview at a funeral parlour the manager asked about the ethnicity of the applicant and upon learning that she was Roma, terminated the interview. The social mediator was unable to change the managers mind.
- 12. Mérida. Direct discrimination.** A Roma woman claimed that her surnames keep her from getting through job interviews. In the end she decided to change her surnames on her résumé in order to get a job.
- 13. Algeciras. Direct discrimination.** After passing the selection process, a candidate for a job was informed that someone else would be filling the job opening. He told us that this was because they recognised his surnames as being Roma.
- 14. Alicante. Direct discrimination.** Two Roma women were called to fill two chamber maid vacancies but had to first undergo a two-day training session. On the first day, both were told to clean rooms but were given no specific instructions. The second day all of the trainees were told to clean rooms and all were given keys with the exception of the two Roma women. Throughout the morning the head housekeeper rebuked them for their mistakes and they explained that they had not been given any instructions and showed their willingness to learn. When it came time to leave they asked the head housekeeper if they were going to be hired but received no answer. In the end they were not hired.
- 15. Jaen. Direct discrimination.** Two Roma women were doing an internship as hotel chamber maids when they heard one of their mates saying that she was afraid of a another woman because of her Roma appearance. The women were subjected to discriminatory and prejudiced comments. When they told their workmate that they also were Roma she was surprised and has tried to avoid them ever since.
- 16. Cordoba. Direct discrimination.** Through its employment programme the FSG helps organise a cashier's course that includes a number of on-the-job training hours. The FSG's enterprise mediator spoke with the head of a supermarket that refused to give the students this sort of opportunity because they had not been informed that the students were Roma and further argued that the post of cashier is delicate because it involves handling cash. They also asked for photographs and the address of these women because the did not want Roma women who lived nearby because, according to them, they could let their acquaintances and family through without paying.



Cases of discrimination in housing

- 1. Puertollano. Direct discrimination.** An FSG service user received help in finding housing. We accompanied the young woman to see a flat she was interested in. In response to the interest shown by the young woman in renting the property, the estate agent agreed to call the owners and initiate the process. That same day the young woman received a call from the agent informing her that the apartment owner is not willing to rent it to a Roma person because he does not trust Roma and doesn't want any problems. He would prefer to leave it unoccupied. Through the agency the FSG wrote a letter to the owner denouncing this act of discrimination but received no response.
- 2. Don Benito. Direct discrimination.** A woman tried to rent an apartment for her daughter through an estate agency and after asking them for all kinds of documents, including her and her husband's pay stubs and having reached the end of the process the agency claimed that this was insufficient and that all family members had to have salaried employment.
- 3. Jaen. Direct covert discrimination.** A young Roma man called a flat owner to rent an apartment. The conversation went very well and the owner claimed that he needed to rent it as soon as possible. They made an appointment to see the flat. When the owner met the future tenants he started explaining why he could no longer rent the flat.
- 4. Don Benito. Direct covert discrimination.** A Roma man tried to rent an apartment directly from the owner for himself and his two children. The owner said yes over the phone but when he met them in person he made excuses and refused to rent it. The man reported this incident to us.
- 5. Salamanca. Direct covert discrimination.** An FSG service user had been looking for a flat for about 3 months. He finally contacted a landlord and agreed on a price and the signing of a one-year contract. The user went to see the flat. The owner gave him a bank account number so that he could deposit the guarantee. From the beginning the user told the landlord he was receiving aid from the Town Hall and that was fine with him. Shortly thereafter he called to tell him that he had to urgently travel to Madrid and that he could not rent the apartment until November. However, a Roma Foundation worker called to enquire about the flat and the owner told him that it was available at any time.
- 6. Pontevedra. Discrimination by association.** An FSG worker was unable to rent an apartment because she works at the Roma Foundation. This has also happened to other co-workers and is a clear example of discrimination against people because of their association with the Roma community, regardless of whether they are Roma or not.
- 7. Zaragoza. Direct discrimination.** On behalf of the owner, an estate agency requested an extra month rent from a Roma woman as a deposit for the rental of a flat. The FSG met with the agency which apologised for not being able to change the owner's mind.
- 8. Castellón. Direct discrimination.** A young Roma woman went to see two flats for rent. On both occasions she was rejected by the owners because of her ethnic origin. The FSG helped her to find housing.
- 9. Salamanca. Direct discrimination.** A young man reached an agreement with a home-owner to rent the flat. However, upon learning that he was Roma he did not contact him. The FSG tried to intercede on his behalf but was unsuccessful.



- 10. Jaen. Direct discrimination.** A couple wanted to move from a village to the capital. They decided to contact estate agencies and were told that the owners will not want to rent to them because they are Roma. After several unsuccessful attempts to rent a flat the couple gave up on the idea of moving and decided to stay in the village.
- 11. Huesca. Direct discrimination.** A woman and her daughter went to an estate agency where they were treated poorly. The agent claimed that nothing was available without even looking to see if there were any flats that met their requirements. Despite this, they still had hopes that the agency would call which it didn't. They later talked again with an employee of the agency who told them she could not contradict her boss' orders. However, the boss claimed that there was nothing they could do because it was the flat owners who did not want to rent to Roma.
- 12. Malaga. Direct discrimination.** Several families found flats for rent. After having done almost all the paperwork, the owner discovered that the 3 families were from an area where many Roma families live. The owner immediately cancelled the rental process explaining that he no longer wanted to rent the flat.
- 13. Pontevedra. Direct discrimination.** An FSG worker went to an estate agency to help a Roma family find a flat. The agents refused to allow him to intervene on behalf of that family owing to their ethnic group.



Cases of discrimination in education

- 1. Jerez. Direct discrimination.** After recess at school, a Roma child found all his belongings scattered on the floor and his bag open and he was accused by his classmates of stealing an umbrella in class. Apparently this girl had been suffering discriminatory treatment for some time and was subjected to ethnic slurs from several students and teachers. When the mother went to the school the head teacher was clearly defensive. The young girl no longer wants to attend class and her performance has fallen off sharply in recent months.
- 2. Ciudad Real. Direct discrimination.** Parents at a school organised a birthday party for their daughters and invited all the girls in the class except the one Roma girl claiming that they didn't want any problems. FSG workers tried to change the minds of the parents but failed.
- 3. Badajoz. Direct discrimination.** The social educator of a school told us of a negative experience she had with a Roma family in a hospital when her son was hospitalised. Since then she has exhibited prejudice against the Roma and had no interest in participating in the Foundation's educational programmes despite the fact that there are Roma students at the school where she works.
- 4. Zaragoza. Direct discrimination.** The mother of a Roma child complained about repeated verbal abuse suffered by her daughter in class, referring specifically to a lack of hygiene. When she tried to solve the problem by speaking with the head teacher she felt discriminated against as the teachers made false accusations and the mother was not permitted to express her opinion. When the FSG received the request for intervention, no lack of personal hygiene was noted.
- 5. Malaga. Direct discrimination.** A Roma woman went to a school to enquire about enrolling her son. She was turned down and informed us because she felt she was discriminated against for being Roma. We went to the school to make the same enquiry as the mother but without identifying ourselves as the Roma Foundation. The school's response was different. They told us there were openings and there would be no problem.
- 6. Malaga. Direct discrimination.** A young Roma man was being harassed by one of his teachers. He tried to solve the problem by speaking with the director who simply defended the teacher and refused to listen to his side of the story. He was then excluded, along with another Roma student, from the training module. The excuse was that there were not enough openings. The student-worker decided to drop out because of this Workshop.
- 7. Mérida. Direct discrimination.** A Roma child under age 16 was having trouble enrolling in the night session of a public high school. Apparently the school secretary refused to give him the registration forms. The FSG spoke with the head of studies and in the end he was able to register.
- 8. Jaen. Direct discrimination.** At a meeting between an FSG representative and the head teacher of a young Roma student, the teacher made stereotypical comments about Roma and admitted to making racist jokes and comparisons in class. The FSG representative had an awareness-raising talk with the head teacher after which he changed his attitude and expressed interest in receiving training in multiculturalism.
- 9. Vigo. Direct discrimination.** The manager of a shopping centre said that he cannot allow Roma students to do internships at his shops because he has to preserve the centre's image. After a fruitless dialogue, FSG workers were forced to look for other collaborators.



- 10. Granada. Direct discrimination.** In a high school classroom one of the students proclaimed that Roma are dumb and the teacher did nothing about it.

- 11. Alicante. Direct discrimination.** During a meeting between different educational sector organisations, one of the speakers claimed that school absenteeism is part of Roma culture. FSG workers present at the meeting spoke up and addressed the person later to correct this erroneous belief.



Cases of discrimination in other areas

- 1. Gibraltar. Racism.** A Roma woman was walking with some friends, all mothers of her daughter's classmates when they crossed paths with another couple whose son attends the same school and while she was talking to the mother, the father of the student made a discriminatory comment (he believed that the teachers were undeservedly passing a Roma girl in one of her classes) and also made other disparaging remarks about her ethnic background.
- 2. Alicante. Racism.** A young Roma had a traffic accident which was his fault. Although the young man recognised that he was at fault and wanted to do the paperwork and leave everything in the hands of the insurance company, the other party ignored him and called the police and said "it was a fucking Gypsy".
- 3. Granada. Racism.** During a municipal Absenteeism Committee meeting in the province of Granada, the Councillor for Youth and Education in one of his speeches explained that a portion of the municipality's population was engaging in anti-social behaviour showing a tendency to "mimic Gypsy behaviour", i.e. breaking the rules and showing disrespect in public spaces. Basically he likened a general loss of values in the general society to acting like a "Gypsy".
- 4. Jaen. Others Direct discrimination.** A self-employed mason did some work for a Roma family and wasn't paid the full amount agreed. Since then he has refused to do any work for Roma people and expresses his prejudices against the community as a whole.
- 5. Huesca. Others Direct discrimination.** On the feast of St. George in a village of Huesca the sign announcing the town festival, intended to be humorous, is clearly offensive to the Roma community. The FSG wrote a letter of complaint and the Mayor went to the FSG office to apologise and made a public statement in the local newspaper.
- 6. Linares. Others Direct discrimination.** The FSG office in Linares was invited to attend the launching of a new comprehensive intervention programme with Roma. During this act it became apparent that those present (local associations, schools, police, social services, etc.) had a negative opinion of the Roma community.
- 7. Valencia. Others Direct discrimination.** Two FSG workers attended a meeting at a school and when they were leaving a woman asked them if they were staff members. The workers told the woman that they were not and she then told them that she saw a "Gypsy kid" hitting a little girl and wanted to talk to someone from the school and urged them to keep a closer eye on "those kids".
- 8. Cordoba. Racism.** An FSG worker who is Roma attended a volunteerism conference where a person was making racist and discriminatory comments about the Roma community in the context of housing saying things like "they destroy their houses like that because they were nomads; it's in their genes". That person even addressed the FSG worker saying "better be careful what you do with your genes". The FSG representative met with the man later and was successful in raising his awareness on Roma issues.
- 9. Andalusia. Others Direct discrimination.** The Evangelical Church of Chauchina was promised a place to hold their services. The citizens of the town sent a letter to the City Council making serious racist accusations and calling for demonstrations against a church where most of the faithful are Roma. In the end the city council gave in to the pressure and the premises was used for a different purpose.



- 10. Pamplona. Others Direct discrimination.** The Association of non-Roma Romanians accused the Romanian Roma of being delinquents in a newspaper article. After the article was published a meeting was held with the President of the association who started out apologising and then repeated his negative opinions towards Romanian nationals of Roma descent.
- 11. Almeria. Others Direct discrimination.** A Roma family is president of the homeowner's association and one of the owners complained about having to give them a copy of her meter key asserting that "you Roma are thieves". The other neighbours supported the Roma family. As a result of this discussion, relationships became tense and affected the daughter of the Roma family who became the target of discriminatory insults at school by one of the children of the other family who taunts her by repeating "Roma thieves" to the delight of the other students.
- 12. Almeria. Others Direct discrimination.** A Roma woman contacted the FSG. Tearfully she explained how her family was being harassed in her village for being Roma. Apparently, the family was suffering verbal abuse in the street and told the FSG that they had to leave town because all the neighbours agreed they did not want Roma there.
- 13. International (Bulgaria). Roma community in Bulgaria.** Direct discrimination. A young man was hit by a Roma driver in a village in Bulgaria. The xenophobic response which spread over the whole country was terrible and the issue was not only addressed in the media but also by European bodies such as the Council of Europe. The case described here is just one of many incidents of discrimination that occurred against Roma persons or communities in many countries in Europe in 2011. The purpose of this report is not to give a detailed report on the situation in Europe but to cite the following cases as examples: Czech Republic (Roma children segregated in schools), Hungary (neo-Nazi marches organised by the Jobbik party through Roma towns), Italy, Serbia, Albania and France (expulsions of Roma from the country), Romania (building of walls to isolate Roma settlements), anti-Roma hate rhetoric from political leaders (Belgium, Czech Republic, Romania, Italy), and arson attacks on homes of Roma families (Slovakia, Czech Republic), destruction of shanty towns (Lithuania, Albania), separate treatment of Roma children in hospitals (Romania, Slovakia), lack of access to legal documents in the case of Roma Kosovar refugees (Montenegro), anti-Roma rhetoric by the Golden Dawn neo-Nazi party in Greece, etc.



Cases of discrimination in health-care

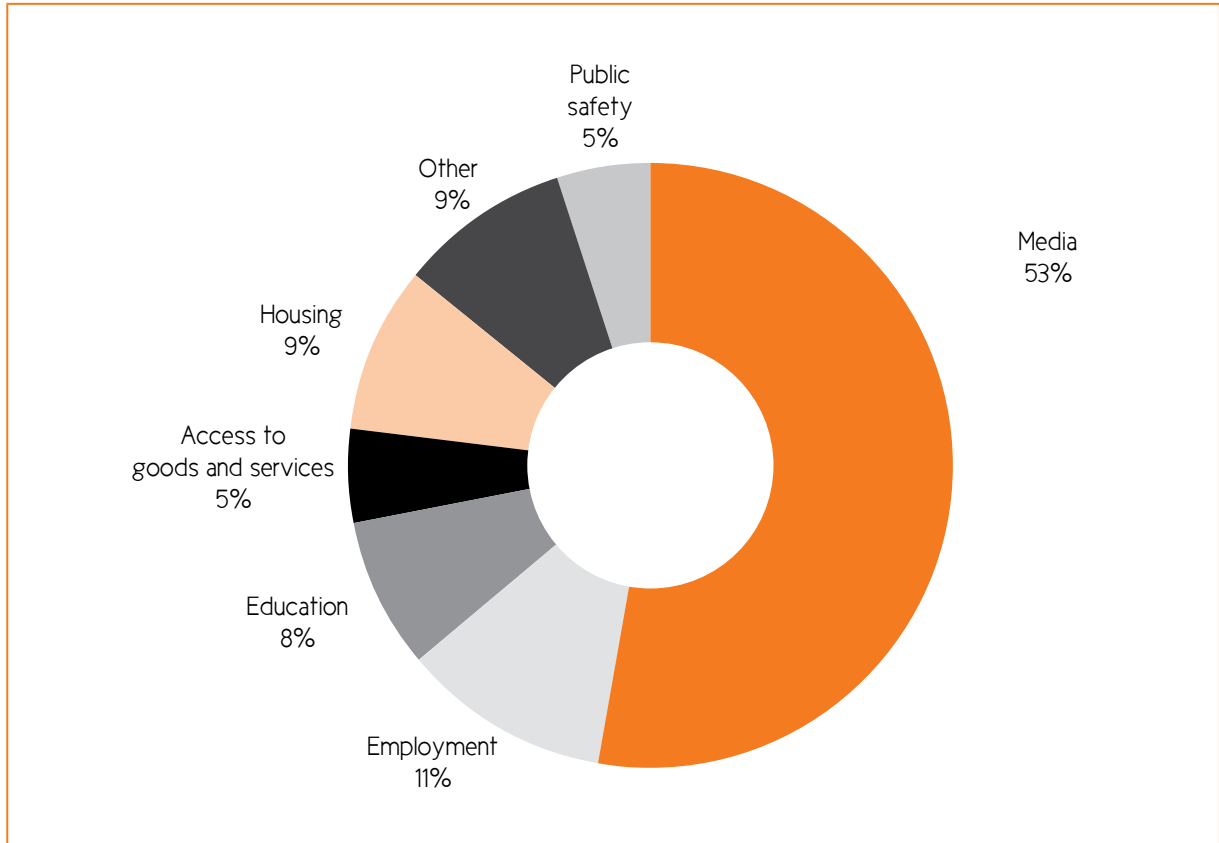
- 1. Valencia. Indirect discrimination.** A Romanian Roma family seeking health care was told by the health centre social worker that they had to provide an official sworn translation from Romanian to Spanish or Valencian of the certificate issued by the competent institution in their country of origin accrediting that they have a right to health care outside of Romania. We investigated the appropriateness of this requirement and discovered that this order is intended only for Bulgarians and Romanians lacking economic resources. This order prevents a very large proportion of Roma immigrants from Romania and Bulgaria from obtaining a health-care card and thus from gaining access to basic services which affects their situation of social exclusion. This discrimination was recorded and addressed by the FSG in 2009. Discussions were held with the health department but recently we were informed that the situation of indirect discrimination has resurfaced and so we continue to work on this issue with other entities such as Médecins du Monde.

3. Presentation of disaggregated data

In this section we present the disaggregated data from the 148 cases of discrimination collected by the FSG in 2011.

Areas of discrimination:

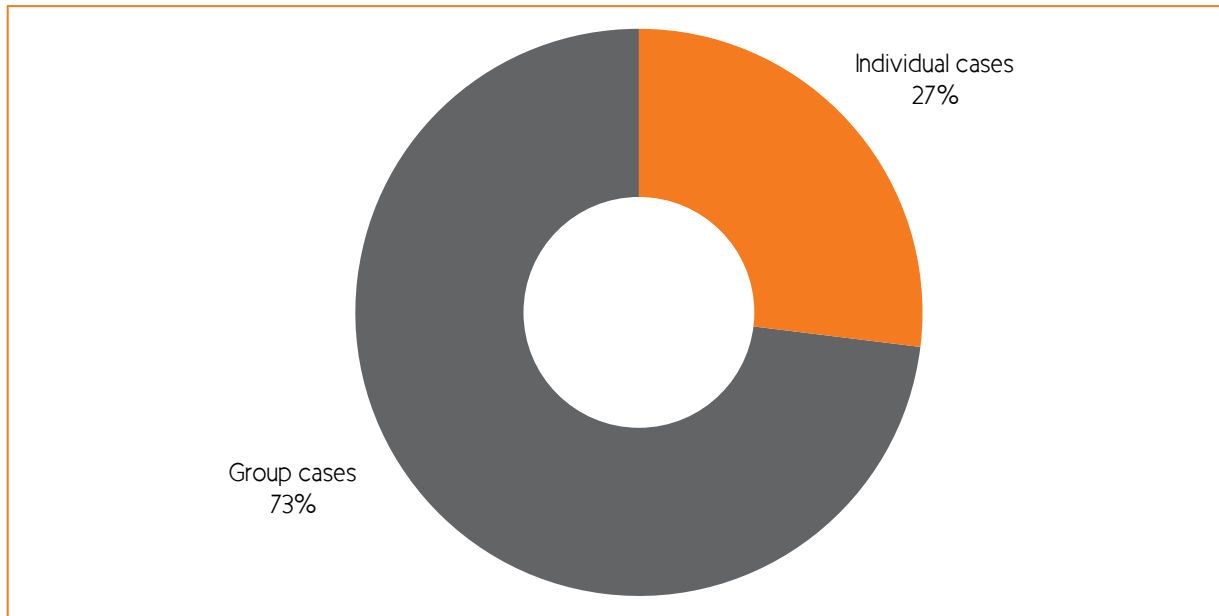
- The media: 78
- Employment: 16
- Education: 11
- Access to goods and services: 8
- Housing: 13
- Other: 13
- Citizen Security: 8
- Health-care: 1





Cases:

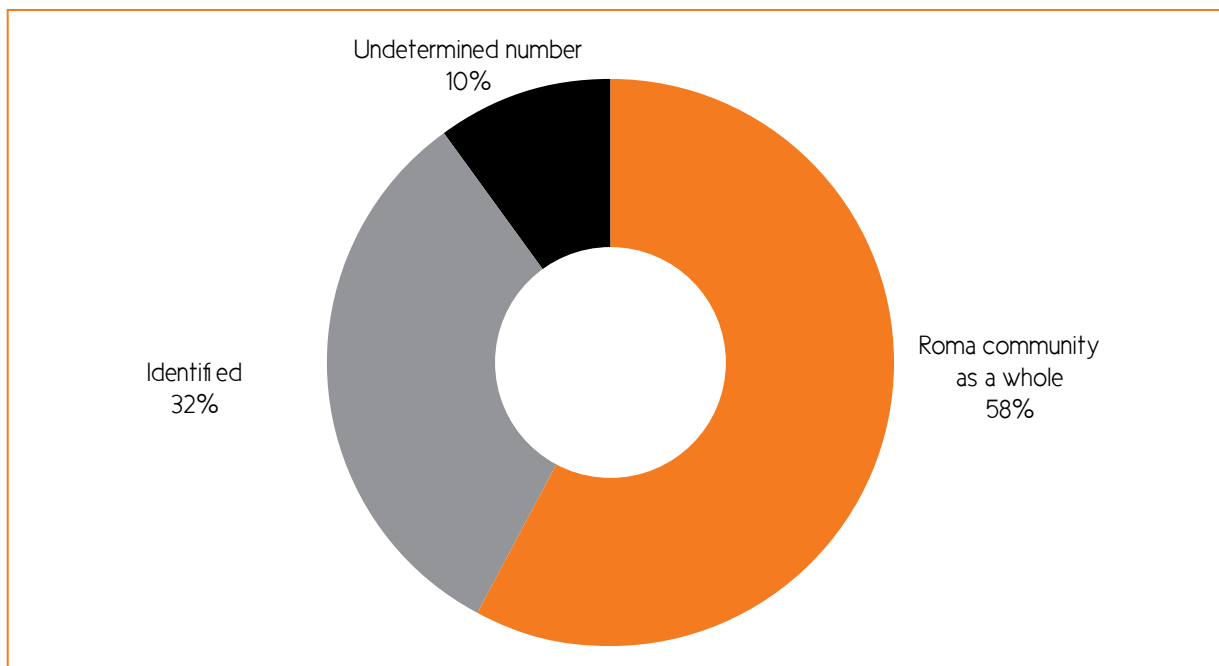
- Individual: 41
- Collective: 107 of which:
 - affect the entire Roma community: 85
 - affect a group of Roma people: 22



Note that there are 41 cases involving an individual victim and 22 cases in which discrimination mainly affects a group of ethnic Roma in the field of housing, access to public places and access to training and labour internships.

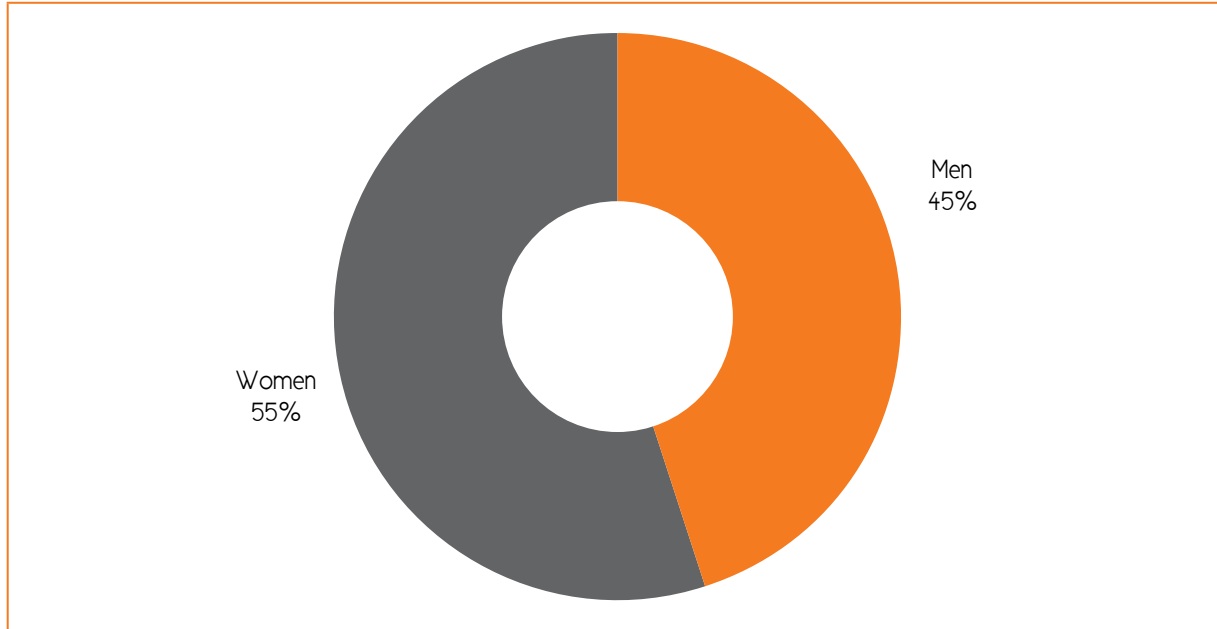
Victims:

In 48 of the 148 cases we were able to individualise the number of people affected, the total coming to 56 victims. Of the remaining 100 cases, in 85 the victim is the Roma community in general while the other 15 cases involved an undetermined group of Roma .



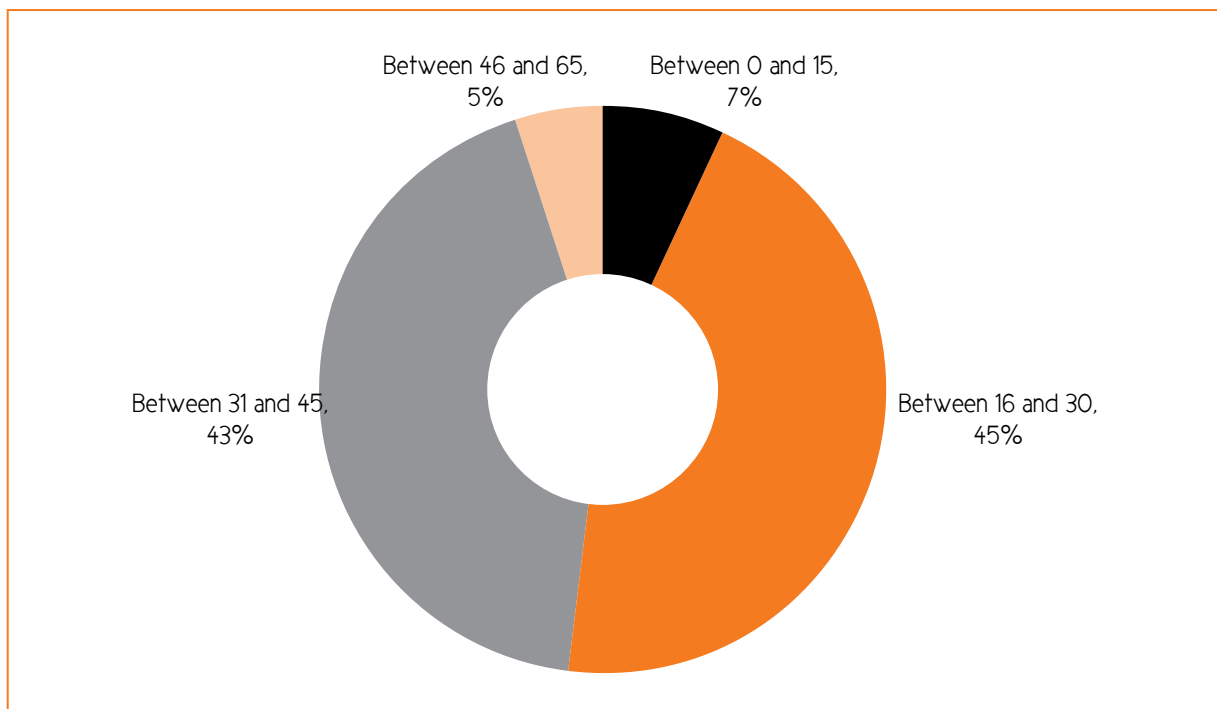
Breakdown of victims by gender.

Of the 56 individual victims, 31 were women and 25 were men.



Age of the victims

- Between 0 and 15: 4
- Between 16 and 30: 25
- Between 31 and 45: 24
- Between 46 and 65: 3





**In-depth
analysis**

1. Objectivity does not exist

Emilio de Benito.
The newspaper 'El País'.

I am sorry to announce: objectivity does not exist. Anyone expecting the media to provide cold hard facts with no sort of bias is in for a disappointment. We all have baggage and background. That was perhaps the most important lesson I learned in the journalism master at EL PAIS, the newspaper where I have been working since 2000. And the person who said that was Joaquín Estefanía, former director of the newspaper and the School of Journalism. His explanation went further. "If you are not an object but rather a subject, everything you do is subjective, not objective."

Another thing I learned in that master: communication is a process that involves at least two people. The sender (journalists), and the receiver (readers-listeners-viewers-Internet users). And what I discovered later, this time by myself, was that this objectivity principle applied to both ends of the communication: the sender and receiver.

I mention this after reading the FSG's 2012 Annual Report, especially the pages that list the cases of discrimination against the Roma community in the media. In most cases I felt embarrassed and irritated but in others I have to admit that I fail to really grasp what mistake was made by the journalist in question. I could even see myself reflected in some aspects.

Only on this basis can I attempt to explain the importance of, despite this, or perhaps because of it, trying to be as cold as possible (since objectivity is impossible) when reporting on something involving a minority group (and, surely, with every reason to feel discriminated against). And here there is another lesson to be learned which this time is in the style books: traits such as gender, sexual orientation, disability, health status, nationality or race are only news when they add something to the information, especially when they help explain it.

I have not had many occasions to report on Roma. But I have reported on many other minority groups: people with HIV, the mentally ill, gays, lesbians, transsexuals, people with disabilities, immigrants, undocumented or not, believers, atheists and even a group which is less

of a minority: women. And I've always applied the same filter: is that aspect relevant? It goes without saying that, in the view of the readers, I have often failed. I have been accused of being insensitive, ignorant, sexist and even homophobic (yes, me, and I came out of the closet 30 years ago!).

What was the problem? These are issues on which there is no middle-ground. For a person who has been discriminated against his or her entire life for belonging to a certain group, any mention of that trait is an aggression. Although—and I really must say this—they are not always right.

Let me give a current example. Recently, the Community of Madrid summoned journalists to present a group of mountaineers with schizophrenia who were going to the Himalayas. But they did not invite sports writers but rather those of us who cover health issues. At a later conference, several people with schizophrenia berated us reporters for treating them as a strange crowd who were unable climb a mountain. For us as professionals, it's a no win situation. If we don't report, we're ignoring people with mental illness but if we do, we're singling them out. I'm certain that this example can be applied to all groups (I remember the controversy around the first Roma person who was elected to Parliament, for example).

And this was a positive news story. But the same goes for negative events. Continuing with the topic of mental illness we have the case of Noelia de Mingo, the physician who stabbed several of her colleagues in a Madrid hospital. Should journalists have concealed the fact that this person had schizophrenia when—and this is the important point—she was in the midst of a crisis and was not receiving proper care or medication? Honestly, I think not.

Now apply these cases to some of the stories where the protagonist is Roma, Muslim, a man, gay, drug user, teacher or priest. Our job is not only to inform but especially to explain. And there are times where these characteristics (and many others) are relevant even though it may not suit us. Although it may appear that we are blaming a whole group for the actions of only a few, I can



assure you that I know my colleagues and this is usually unintentional. And this must be accepted by both parties: those who write the news and those who read it.

But that does not mean there are no glaring errors. Journalists do not live in isolation. They do not come into the profession prejudice-free. They begin their professional life at age 23, 24, 25 and have absorbed everything around them (and would be poor professionals indeed if they didn't). And only stringent control—or, better yet, an ingrained belief—serves to detect such slip-ups to prevent the stigma from surfacing or, worse still, from becoming consolidated. Without getting into the debate of which came first, discriminatory language or the discrimination itself, there are certain approaches and issues that should not be allowed.

I've said it before: characteristics that may be associated with discrimination may be used but only if they help in understanding the news. If not, they have absolutely no place. I will not go into specific cases because my mission is not to judge my colleagues. But if a person runs a red light or yield sign and hits someone, holds up a bank, sells drugs or rapes someone—all easily identifiable examples—it makes little difference if that person is Roma, Romanian, Salvadoran or from Burgos. That is a red line that is taught in the first year of journalism school (or should be) and that must not be crossed. And which, unfortunately as this report shows, often is crossed. Even if there is no ill intent, even if it is simply a symptom of mental laziness, taking the easy way out, resorting to a stereotype to provide a hackneyed explanation without searching for what is really behind the story. This is something to be avoided if only for professional pride and journalistic quality. Even if one's intention is not to combat stereotypes or tear down barriers, the simple satisfaction of a job well done should be enough to spark us to delve deeper, to be more sincere and to search for the real causes. Naturally I'm not advocating abandoning ship and not explaining what is going on around us. The goal is to provide the true explanation, not the easy or obvious which is most probably limited or just plain wrong.

The exercise is really quite simple and doesn't take much time. It's as simple as asking yourself if there is another way of defining or explaining the event. In most cases the answer will be yes.

In this respect, the major media channels have an advantage: if the writer has failed to ask himself this question, someone further down the line (the editor, the editor in chief, a colleague revising the text...) will notice the discrimination or at least the lack of quality implicit when one constantly falls victim to stereotypes. I am therefore not surprised that in the FSG's report there are so many cases of this sort of malpractice in small media groups where these controls are more limited. I include digital media in this group.

Although it might appear that I'm making excuses, those of us who know how some of these webs work, their lack of staff and controls, are not at all surprised that they continue to make these mistakes. Avoiding discriminatory language does not come naturally. It is taught and learned until it is internalised. Or, at least, it can only be taught and learned if it is internalised.

But there is another aspect that should help journalists to do our jobs better. From the perspective of social journalism with a vocation to improve society in a particular way, i.e. improve people's lives, maybe it is possible to overlook the rule that one's origin, sex or other characteristics do not matter. But that is when the news is positive. If someone scores a goal, climbs Everest, writes a book, saves a life or wins a prize, probably the fact that s/he is Roma, Romanian, Salvadoran or from Burgos—or a host of other characteristics—is not worthy of mention either but would not likely ruffle any feathers. A positive view of groups that are not traditionally viewed in a positive light always helps and does not infringe any ethical code.

The problem arises when fringe issues arise. What is behind a quarrel between two groups on the street? Why would a parent subject his or her daughter to genital mutilation? Why would they force her to get married at age 15? Why do some children beg in the streets? Why is the failure rate at school higher than average? Why is a particular neighbourhood dangerous or known for extortion? There is no set rule for knowing when it is appropriate to mention whether we are talking about Roma, Romanians, Sub-Saharan Africans, people with disabilities, impoverished people, the mentally ill... There is, however an exercise that can help. It's a matter of turning the issue around. Can the story be explained without mentioning those traits? In many cases the answer would be yes.

I find this topic discouraging because first-year journalism students should know how to avoid this error. And I'm not optimistic going forward. We make mistakes (as I said, some information appearing in the report caused me embarrassment and irritation) and we exacerbate stereotypes and stigma. But I know what I'm like (male, gay, from Madrid, short) and I know what I think about abortion, PP, PSOE, the Church, sexism, homeopathy ... and that is why I have to be very careful when addressing these subjects. Although I know that sometimes others are not going to see things that way. When we all complete this exercise of checking whether these factors are relevant for writing and reading, for the writer and the reader, then we will be moving towards a meeting point.

2. Strategic litigation on the part of the Fundación Secretariado Gitano. Private prosecution in defence of a Romanian Roma woman

Sara Giménez Giménez.

Attorney at Law Head of the Area of Equality FSG.

The Fundación Secretariado General Gitano (FSG) continues to promote the defence of equal treatment and non-discrimination of Roma through strategic litigation in discrimination cases. In this connection, a complaint was filed before local criminal court No. 1 of Barcelona in February 2011 and declared admissible. The FSG acted as private prosecution in the case which is connected with another one lodged through the Hate and Discrimination Crime Service of the Barcelona Provincial Public Prosecutor.

The case was led by the lawyer Sara Giménez, head of the FSG's Area of Equality to defend the rights of a Roma woman, a Romanian national who, according to the complaint, was mistreated by the Mossos d'Esquadra (regional police force of Catalonia) in an event occurring in Barcelona.

This woman sought help from the FSG after her daughter was taken from her as a precautionary measure. She is claimed to have suffered discrimination and unfair treatment at the hands of the Mossos d'Esquadra for being a Romanian Roma woman. Since the FSG promotes equal treatment of the Roma community it wanted to be party to the case as the private prosecution. The investigation stage of the procedure has come to a close. Evidence was collected in the form of depositions and documents which have provided sufficient reason to believe that the police action could constitute a criminal offence. Therefore, the examining court has ruled that the procedure continue as a Sum-

mary Proceeding and this decision was confirmed by the Provincial Court of Barcelona following the appeal lodged by the legal representation of the accused.

The following facts prompted the Fundación Secretariado Gitano to become involved in the case:

On 19 April 2010, a Romanian Roma woman with her baby was in the vicinity of a supermarket in Barcelona. Two Catalan police officers approached her and **in the police report falsely accused her of mistreating her baby.**

The accusation made by the Catalan police in their report had very serious consequences for this Roma family. Specifically, local criminal court No 14 of Barcelona initiated an urgent procedure against this woman which culminated in an Order of 20 April 2010 **to issue a precautionary restraining order prohibiting the mother from going near her daughter.** The child was therefore put under the care of the Care Service for Children and Adolescents for three months.

Later in the proceeding the investigating authority took into account the sworn statement made by several witnesses who said that "the Romanian woman did not kick or hit the child". "They never saw the woman hit the baby; just the opposite, this Romanian woman was very affectionate with her child...". Moreover, the forensic medical report showed no indication of any sort of injury. It was proven in court that the accused did not



cause her baby any harm and an Order was issued on 21 July 2010 reversing the restraining measure ordered on 20/04/2010.

The Fundación Secretariado General Gitano believes that the action taken by the Mossos d'Esquadra was illegal in so much as the police report contained a false accusation against this Romanian Roma woman which we believe was related to her ethnic and social status. Would they have taken the same action if a non Roma Spanish woman was scolding her baby and gave her a slap? This false accusation caused irreparable damage to the family that was forced to live for several months in a difficult situation: the baby remained in foster care at the Service for Children and Adolescents and her

mother could not so much as visit her and was accused in a proceeding that was ultimately dismissed for lack of evidence.

This case is part of a new line of action performed by the Fundación Secretariado Gitano's Area of Equality, i.e. legal defence of individual cases in order to fight discrimination against Roma in the courts and thus support the discrimination victim assistance work that the FSG has been carrying out as reflected in the Discrimination and the Roma Community reports published since 2005.

3. Racial discrimination in the European Court of Human Rights case law

Dr. Fernando Rey Martínez
University of Valladolid

- I. Introduction: What does the prohibition of discrimination mean according to the European Court of Human Rights?
 - II. Racial discrimination conflict scenarios examined in case law.
 - 1. Racist attacks by law enforcement officers.
 - 2. Racist attacks on the street and insufficient judicial protection.
 - 3. Expulsion of caravans.
 - 4. School segregation.
 - 5. Discrimination at the border.
 - 6. Racial discrimination and judicial impartiality in jury hearings.
 - 7. Racist rhetoric and freedom of information.
 - 8. Roma marriage and the right to a widow's pension.
 - 9. Ethnic origin as a cause of electoral ineligibility.
 - 10. Sterilisation without informed consent.
 - III. Conclusion: The Strasbourg Court begins to take prohibition of racial discrimination seriously.
- Appendix: ECHR cases cited.

I. Introduction: What does the prohibition of discrimination mean according to the European Court of Human Rights?

Article 14¹ of the Rome Convention of 4 November 1950 for the Protection of Human Rights and Fundamental Freedoms (hereinafter Rome Convention) contains both the general equality clause and the prohibition of discrimination based on specific causes (sex, race, etc.).

¹ 'The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.'

Following is the general interpretation the court has made of equality enshrined in Art. 14 until near the end of the first decade of this millennium²:

1. Discrimination is "differential treatment, without any objective or reasonable justification, of persons in substantially similar situations". Willis v. the United Kingdom of 11 September 2002³ is the Judgment

² A magnificent study on the subject can be found at: CARMONA, E. (2005): "La prohibición de discriminación (art. 14 CEDH y Protocolo 12)", en *La Europa de los Derechos. El Convenio Europeo de Derechos Humanos*, (GARCÍA ROCA, J. y SANTOLAYA, P. coords.), CEPC, Madrid, 2005, pp. 665-695.

³ A case in which the Court ruled that the right to private property had been infringed (Article 1 of the First Additional Protocol) regarding the prohibition of discrimination on grounds of sex (Article 14) by the fact that widows'



which the Court often cited as the leading-case of this doctrine. In *Thlimmenos v. Greece* of 6 April 2000, the Court also appears to consider discrimination for failure to differentiate, i.e. discrimination where States fail to treat people differently, without any objective or reasonable justification, when situations are substantially different. Therefore, discrimination exists when equals are treated differently (discrimination arising from differentiation), but also when un-equals are treated the same (discrimination for failing to differentiate). However, this latter doctrine, which would require preferential legal treatment of anyone who, in a comparable situation, is worse off (and hence would enshrine a pro active principle of the welfare state and equal opportunity) does not seem to be consolidated in the Court, for it was only applied in the *Thlimmenos* case to arrive at what I would consider a just solution in that case⁴. I do not believe it will have much of a future beyond that case although some of that judgment's assertions are frequently cited.

2. Member States enjoy "a bit of discretionary freedom" when assessing whether, and to what extent, differences in other similar situations justify different treatment, but the final decision as to compliance with Convention requirements belongs to the European Court of Human Rights.
3. Article 14 of the Convention does not exist on its own. In other words, it can only be claimed in conjunction with another of the rights recognised in the Convention, although the court does not necessarily have to identify a violation of Article 14 in determining the existence of discrimination (in other words, it has a degree of autonomy which could be called "second degree" once a link is detected between the prohibition of discrimination on any other of the rights protected under the Convention). The application of Article 14 is also "subsidiary"⁵ in relation to the other Convention rights because if the Court finds a violation of the latter, there is no need to examine such infringement with respect to the prohibition of discrimination. The Court asserts that Article 14, while not existing on its own, "plays an important insofar as it complements other rights"

pensions were granted to women but not men.

4 The case was quite clear. Mr. *Thlimmenos* was legally prevented access to the civil service post of official chartered accountant because he had a prior criminal conviction but it was because, as a Jehovah's Witness, he had refused to wear a military uniform. The Court holds that there is no objective and reasonable justification for not treating Mr *Thlimmenos* differently from other persons convicted of a felony and therefore was victim of a violation of Art. 14 in conjunction with the right to religious freedom of Art. 9. Regarding discrimination for failing to differentiate see: COBREROS, EDORTA (2007): 'Discriminación por indiferenciación, estudio y propuesta', *Revista Española de Derecho Constitucional*, n° 81, pp. 71-114.

5 ROCA, E., ob.cit., p. 693. This has been the view of the Court since *Airey v. Ireland*, 9 October 1979.

(*Timishev v. Russia*, 13 December 2005.)

Summing up, we can reduce Strasbourg Court case law on the Prohibition of Discrimination under Article 14 to a formula consisting of three ingredients: (1) discrimination as an unjustified difference in treatment; (2) broad and generous application of the doctrine of margin for state discretion; and (3) additional and subsidiary function of Article 14.

I do not entirely agree with this interpretation of the Rome Convention's Article 14 anti-discrimination clause which I would characterise as "low intensity" while recognising its internal consistency. By not drawing a distinction between the general concept of "equality" (legal fairness of differential treatment) and the prohibition of discrimination on the basis of certain traits (race, sex, etc.), with regard to which the fairness criterion should be deemed insufficient (the judgment should become more demanding and consider proportionality, strict scrutiny, etc.), i.e. by failing to distinguish between discrimination in a broad sense and a strict sense and adopting, in principle, a judicial examination criterion that defers to a large extent to the authority establishing the difference in treatment, it is natural for the Court to tend to allow its judgement criteria to be tainted by that of national authorities and to give only secondary or subsidiary importance to the prohibition of discrimination in comparison to the rest of the rights protected under the Convention.

Elsewhere in this paper I have tried to systematically organise these concepts so I will not dwell on them here⁶. Here I would simply like to insist on distinguishing between equality in a general sense and prohibition of discrimination based on certain traits such as race or ethnicity and on confirming the substantive or autonomous value (not simply relational) of the prohibition of discrimination in the strict sense and, for the sake of consistence, on toughening judicial review when this sort of discrimination is invoked and adopting a more stringent standard than mere fairness and partially different according to the visible trait in question (gender, race, sexual orientation, etc.) and the specific social context of the dispute.

The Council of Europe itself has tried to overcome the difficulties posed by Article 14 of the Convention and its interpretation by the European Court by adopting Protocol No. 12⁷ that recognises a broad prohibition on discrimination rather than the current ban limited to the rights expressly set forth in the Convention or its

6 Recently, in: *Por la diversidad, contra la discriminación. La igualdad de trato en España: hechos, garantías, perspectivas. Fundación Ideas para el Progreso. Madrid, 2010.*

7 Opened for signing on 4 November 2000 (on the significant date of the fiftieth anniversary of the Convention) and entering into force on 4 October 2005 (in Spain on 1 April 2005).



protocols. The first article of the Protocol provides a follows: "The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status"⁸. The official Explanatory Report of this Protocol draws attention to the limited operability to date of Article 14 of the Convention⁹, its inability to distinguish between the different types of discrimination and the nearly non-existent interpretation made of that provision by the European Court, especially in the area of racial and sexual discrimination.

Another truly surprising and questionable aspect of traditional case law is that while the Court had been protecting people to a certain extent against discrimination based on sexual orientation, birth and even nationality¹⁰, until 2005 legal protection from racial discrimination was infrequent, lax and inconsistent featuring debatable judgments such as the one delivered by the Chamber that heard the *D.H. and Others v. the Czech Republic* case (7 February 2006), or the Chamber issuing the *Orsus v. Croatia* ruling (17 July 2008) which we will analyse further on. This is surprising because, as stated by R. Dworkin, racial discrimination is the most odious of all because it "expresses contempt and is deeply unjust ... is extremely destructive to victims ... not only depriving them of the opportunities available to others, but also harming them in nearly all of the projects and hopes that they can conceive"¹¹. On the one hand, racial discrimination stigmatises its victims¹² and, on the other it "isolates minorities and

takes away their voice"¹³. In fact, anti-discrimination law in the United States can be traced to the struggle against racial discrimination. And there is a large and growing international corpus of regulations protecting ethnic and racial minorities¹⁴, particularly emanating from institutions such as the Council of Europe and the European Union, bearing witness to a new European consensus on the special protection required by ethnic minorities, particularly the Roma community as the main victim of prejudice and racist attacks on European soil.

This new political view of the problem of racism in Europe is a result, inter alia, of the problems caused by major migratory movements within the region and recent racist incidents provoked by certain European governments (France, Italy and others, not to mention the traditional institutional racist practices entrenched in most Eastern European countries), which have sparked a reaction from European institutions, including the European Court of Human Rights¹⁵. Suffice it to note, for example, the importance of the recommendations and report of the European Commission against Racism and Intolerance in tipping the balance in the controversial *Orsus and Others v. Croatia* judgment of 16 March 2010 which we will analyse presently. The judgments *Nachova and Others v. Bulgaria* of 6 July 2005 on violence against the Roma minority, and

8 Regarding its protection system, we find that the Council of Europe remains a couple of steps behind what could be called the "current rights protection standard" as it chooses to include the same list found in Article 14 of the Convention without adding other characteristics such as sexual orientation despite the fact that the Court interpreted in a very protective way the rights of homosexuals, transsexuals, age or disability. Although the list is open, naturally the explicit listing of traits has a significant and direct interpretative effect.

9 As well as the surprising fact that it does not recognise a general principle of equality (discrimination in a broad sense), unlike other comparable international texts. Although it is true that the Court soon thereafter recognised this implicitly "equal treatment" by frequently citing the Belgian Linguistic Case Judgment of 23 July 1968 (and it can be argued that it has endowed Article 14—a discrimination clause in the strict sense—not with that meaning but that of a mere general equality or discrimination clause in a broad sense, producing an interesting paradox).

10 See *ROCA, E., ob.cit.*, pp. 675–678.

11 *Sovereign Virtue. The Theory and Practice of Equality*, Harvard University Press, 2000, p. 407.

12 In anti-discrimination law, the theory of stigma comes from KARST, KENNETH L. ("Equal Citizenship under the Fourteenth Amendment", *Harvard Law Review*, vol. 91, Nov. 1977, pp. 1–68). For him, the main idea of equality is the right of equal citizenship which guarantees each individual the right to be treated by society as a respected and responsible participant. To state this in the negative, the right to equal citizenship prohibits society from treating an individual as a member of a lower caste or as a dependent person or a non-participant. In other words, the right to equal citizenship protects people from the humiliation of a stigma, i.e. the attitude taken by "normal people" or "the majority" to those who are different. Quoting Goffman, Karst asserts: "The victim of stigma is not fully human." Not all inequalities stigmatise. Victims suffer the effects of stigma which weakens

their self-esteem such that most come to accept the prejudicial inequalities as "natural", but they also affect society which elaborates an ideology around the stigma to justify it. I have no doubt that racial minorities that are victims of a "stigma" (not the case of women, for example) fit perfectly into the category of "caste". In my opinion, this means that rules prohibiting racial discrimination can (and should) be more forceful than for other types of discrimination. This could be achieved by prioritising affirmative action and other types of positive discrimination for these groups.

13 Racial minorities are, strictly speaking, "isolated and voiceless minorities" in the political process. The doctrine of "discrete and insular minorities" was coined by the U.S. Supreme Court in the fourth footnote of the *Carolene Products v. the U.S.* Judgment of 1938 (rapporteur: Stone) and has been formulated theoretically by ELY, JOHN H. ("Equal Citizenship Under the Fourteenth Amendment", *Harvard Law Review*, vol. 91, Nov. 1977 pp. 69 et. seq. According to this theory, the constitutional prohibition of discrimination mainly concerns the legal protection of those minority groups who are unable to defend themselves in the political arena due to lack of rights or negative stereotypes. This point of view also reinforces the idea that laws against racial discrimination should be particularly forceful.

14 In the form of general human rights declarations (Article 2.1 of the Universal Declaration of Human Rights, Art. 2.1 of the International Covenant on Civil and Political Rights, in addition to Art. 14 of the Rome Convention) or specific texts (universal such as the International Convention on the Elimination of All Forms of Racial Discrimination adopted by the General Assembly of United Nations on 21 December 1965, or ILO Convention No 111, or regional such as the Council of Europe Framework Convention No 157 for the Protection of National Minorities, ratified by Spain on 1 February 1995). Council of Europe and European Union institutions have recently been engaging in intense activity to promote equal treatment and opportunities for ethnic minorities, especially the Roma community. A recent noteworthy example is the EU Framework for National Roma Integration Strategies adopted by the European Union Commission on 5 April 2011. To monitor this line of work and others, see: www.gitanos.org

15 Since the *Coster v. the United Kingdom* judgment of 18 January, 2001 the Court has been asserting that there is an "emerging international consensus among Council of Europe States recognising the special needs of minorities and an obligation to protect their security, identity and lifestyle". As we shall soon see, however, these good intentions did not result in a positive judicial outcome for the Roma community.

DH and Others v. the Czech Republic (Grand Chamber) of 13 November 2007 regarding school segregation of Roma children, mark a complete turnaround in the interpretation of discrimination in general and racial discrimination in particular, incorporating a new sensitivity and a different approach to the problem. Let's take a closer look.

II. Racial discrimination conflict scenarios examined in case law

1) Racist attacks by law enforcement officers.

Unfortunately, this is still the main area of conflict as concerns racial discrimination, both in terms of the number of judgments and, worse still, the severity of the attacks against members of ethnic minorities, mostly Roma. In the *Bekos and Koutropoulos v. Greece* case of 13 December 2005 it was "only" acts of police brutality during a race-related arrest (thus affecting the right to not be subject to torture or inhumane or degrading treatment under Art. 3 of the Convention), but in all the rest Roma persons were murdered by police officers in Eastern European countries (violating the right to life under Art. 2 of the Convention¹⁶ and also this right in conjunction with the prohibition of racial discrimination under Art. 14). In this group of cases there is a "before" and "after" defined by the memorable dissenting opinion issued by Judge Bonello in the *Anguelova v. Bulgaria* judgment of 13 September 2002 and later in the *Nachova and Others v. Bulgaria* judgment of 6 July 2005.

Before the "Nachova" case, in the *Velikova v. Bulgaria* case of 18 May 2000 and the *Anguelova v. Bulgaria* case of 13 September 2002, the Court had to rule on allegations of racist motives in the deaths of Roma persons in police stations and required proof "beyond a reasonable doubt" of such racist attitudes. Owing to such a strict standard, the Court did not recognise racial discrimination (in conjunction with the legal protection of life under Art. 2 of the Convention which was violated): "The evidence before us does not allow the Court to determine, beyond a reasonable doubt, that the murder ... and the lack of a meaningful investigation were motivated by racial prejudice." And this was despite the fact that in both cases the Court noted that the plaintiffs' claim that the murder was racially motivated "was based on serious arguments" and that the respondent State, Bulgaria, had failed to provide a

plausible explanation for the death of the victims and the omission of certain aspects that could have shed light on the facts in the subsequent investigation.

As I mentioned previously, Judge Bonello, a great legal mind¹⁷, cast a dissenting vote in the *Anguelova* judgment and his thesis was later endorsed by the European Court starting with the ground-breaking *Nachova and Others v. Bulgaria* judgment of 6 July 2005 in which it asserts that in cases where someone is killed and racism is claimed, the state authorities must conduct an "effective investigation" of this claim and, more specifically, have "a duty to take additional reasonable steps to unmask any racist motive in an incident involving the use of force by state agents." In these cases, "the burden of proof lies with the defendants, i.e. the national authorities, that there was no discrimination"; particularly in cases of racist violence, "the government must prove the absence of a particular subjective attitude on the part of those involved"¹⁸. He adds that "racial violence is a particular affront to human dignity and, in view of its dangerous consequences, requires authorities to pay special attention and to take definitive action." Consequently,

¹⁷ Judge Bonello begins by noting that it is "disturbing" that in over fifty years of existence the European Court has not found one single instance of violation of the right to life (Article 2) or the right not to be subjected to torture or other degrading or inhuman treatment or punishment (Article 3) induced by racial motives. "Leafing through the annals of case law, an uninformed observer could reasonably believe that there is no suspicion of racism, intolerance or xenophobia in Europe". The Europe projected by this case law "is a paradise of ethnic fraternity" where "people of the most diverse backgrounds live together without worry, prejudice or discrimination". Bonello also notes that the Court regularly hears cases in which members of a vulnerable minority lose their lives or suffer ill treatment, but never has a link been made to their ethnicity: "Kurds, Muslims and Roma are again and again killed, tortured or maimed but the Court is not persuaded that their race, colour, nationality or place of origin has anything to do with it." He concludes with irony: "Misfortunes punctually visit disadvantaged minority groups but only as the result of a well disposed coincidence." The alarm has been sounded, especially with regard to the systematic violations of Articles two and three against Roma in Bulgaria (and not only the cases that come before the Court; reports by Amnesty International, the United Nations and the Council of Europe itself cite Bonello). Bonello traces this "escape from reality" to the "beyond a reasonable doubt" rule as it applies to evidence. In his view, the Court, which as a rule should make rights "practical and effective rather than theoretical or illusory" (*Artico v. Italy*, of 13 May 1980), cannot apply a standard for the use of evidence equivalent to that required by States to get a criminal conviction. Such equivalence renders protection from discrimination "illusory and unattainable". The dissenting judge therefore invites the Court to "radically and creatively reconsider" its approach in these matters and proposes several paths: reversal of the burden of proof; charge governments with a breach of the law when they fail to provide information that only they possess; or when a member of a disadvantaged group is harmed in a situation where racial tensions are running high and the impunity of the state offenders has reached epidemic proportions, the burden of proving that the event was not related to ethnicity should lie with the State. And of course, there would also be a violation of Art. 14 (in conjunction with Art. 2 or 3) if the State fails to properly investigate the racist motives of the attack on the life or the physical and moral integrity of a member of an ethnic minority (just as in the case of the rights protected under Articles 2 and 3 of the Convention). In other words, Bonello has proposed a procedural dimension of protection against discrimination similar to that which the Court has created in relation to the rights to life and physical and moral integrity.

¹⁸ The Court concluded that Art. 14 was violated in conjunction with Art. 2 because the state authorities failed to investigate whether the events of the case could have been racially motivated.

¹⁶ For an analysis of this Article see: *La protección jurídica de la vida, un derecho en transformación y expansión. Artículo 2 CEDH y Protocolos 6 y 13*, en *La Europa de los Derechos. El Convenio Europeo de Derechos Humanos* (GARCÍA ROCA, J. y SANTOLAYA, P. coords.), CEPC, Madrid, 2005, pp. 67-95.



“state authorities must use all means at their disposal to combat racism and racist violence while reinforcing a view of democracy as a society in which diversity is not perceived as a threat but as a source of wealth”. With the Nachova judgment the Court finally (albeit amidst some internal division¹⁹) takes the prohibition of discrimination under Art. 14 of the Rome Convention on racial violence seriously.

In its judgment convicting Spain in the case *B.S. v. Spain* of 24 July 2012, the Court found that the procedural dimension of the right to not be subject to racial violence at the hand of officers of the state, which mandates an effective official investigation, had been breached. The applicant, Beauty Solomon, was a Guinean woman legally residing in Spain who engaged in prostitution in a public street in Palma de Mallorca and in two police actions over the course of two days in July 2005, two national police officers insulted her (“black bitch, get out of here”) and, according to the complaint she herself filed they hurt her physically, a claim supported by a medical report showing injury to her hands and knees. A similar criminal procedural was followed for the two complaints: based only on the statement made by the chief of police who categorically denied the accusation, the examining magistrate did not find any evidence of criminal wrongdoing and ordered the case dismissed. However, the appeal lodged before the Audiencia Provincial de Baleares (High Provincial Court of the Balearic Islands) was partially upheld and the judge ordered the local criminal court to take a statement from the police officers. The applicant requested a line-up to confirm the identification of the officer but the request was denied for alleged ineffectiveness: the officers were wearing helmets at the time of the events and two years had elapsed since then. Almost three years after the event, the judge took a statement from the accused officers at a public hearing. The officers argued that no incident had occurred that night and that the medical report did not specify the date or the origin of the claimant’s injuries. At that point the Provincial Court rejected the appeal. Beauty Solomon then lodged an appeal against this decision to the Constitutional Court which rejected it *a limine* due to its lack of constitutional content²⁰.

19 This judgment includes the opinion of Judge Bratza who does not agree completely with the new doctrine and also believes that in this particular case the racist motive of the deaths of the two Roma has not been substantiated (and therefore the Court should not have found a violation of Art. 14 in conjunction with Art. 2). And also the dissenting vote of seven judges, although in most cases it was not because they did not agree with the violation of Art. 14 in conjunction with Art. 2, but rather because they believed that the lack of a state investigation was only one of a series of indications of racial violence and therefore most judges found it appropriate to treat that fact differently from a procedural point of view.

20 The Spanish Constitutional Court has failed once again in providing legal protection against racial discrimination, which is manifestly deficient: it has only reviewed three cases and its judgment in two of these was later reviewed by an international body and the third, which we are examining

The Spanish government argued before the Strasbourg Court that the injuries were minor, that his case had not been proven and that police action in the area was not taken against the claimant personally but rather as a preventive safety measure in response to the social alarm caused by prostitution and trafficking in human beings (women). The European Court found, however, an infringement of a procedural aspect of the right to not be subject to ill treatment (RC Art. 3) in conjunction with the prohibition of racial discrimination (RC Art. 14), i.e. the Court noted that an *effective* official investigation had not been conducted. In the end, the hearing with the officers involved was not enough because it did not identify the police officers who allegedly caused the damage. Moreover, the line-up was not allowed nor did they conduct a sufficiently thorough investigation of the allegations to meet the requirements of the Rome Convention. As for the Spanish Government’s argument that the injuries were negligible, the Court responded that “the determination of seriousness is, by nature, relative and depends on the facts of the case” such as the duration, the physical and mental effects and the sex, age and health of the victim. In this regard, the Court is satisfied with the physician’s injury report (bruising and swelling) on B. Solomon’s hands and knees.

However, the Court ruled against infringement of the right to not be subject to ill treatment (RC Art. 3) in the material sense insofar as the medical reports are inconclusive as to the origin of the injuries and fail to determine their cause beyond a reasonable doubt. But, as the judgment rightly observes, this is due precisely to the lack of an effective official investigation.

The Court’s examination does not stop there but goes on to address the allegation of racial discrimination made by the complainant. Beauty Solomon had indeed argued that the police had not bothered the other women who were working as prostitutes in the same place and at the same time, but who were “European looking” thus demonstrating racial motivation. In fact, the other entities party to the case (GRECS and The Aire Centre) called on the Court to consider the multi-factor nature of the discrimination (which I would call “multiple” or “inter-sectional”) owing to the fact that the victim was female, black and engaged in prostitution. The European Court apparently only half considered this proposal but concluded that the police had violated the claimant’s right to not be subject to racial discrimination because the authorities did not investigate the racist motives underlying the facts of the case (while it is “extremely difficult in practice to prove racism as a motive”, state authorities must take all reasonable steps to discover whether or not it was

now, shows the same laziness and refusal to act showing that it has yet to take the prohibition of racial discrimination under Art. 14 EC seriously.



a factor”—an obligation in terms of the means and not the results”). The judgment recalls the words “black bitch, get out of here” and the allegation of the victim that the police had not bothered the other European-looking women. The Court found that the judges in charge of the case failed to conduct further investigation into the allegedly racist attitudes of the police officers, nor did they “take account of the specific vulnerability of the applicant, inherent to her condition as an African woman engaged in prostitution”. This “specific vulnerability” standard, while not conclusive in resolving this issue, is introduced as an interesting novelty that perhaps may have repercussions in future Court case law on discrimination as an indirect way of recognising “multiple discrimination”.

The Nachova doctrine is cited by the Court in almost all similar cases thereafter: *Bekos and Koutropoulos v. Greece* of 13 December 2005²¹; *Ognyanova and Chocan v. Bulgaria* of 23 February 2006²² and *Stoica v. Romania* of 4 March 4, 2008²³ and also *Timishev v. Russia* of 13 December 2005, although this latter case does not deal with police brutality as we shall see.

So in this important area of police brutality towards ethnic minorities, particularly the Roma community, the Court has forged a fairly powerful protection standard which we could call the “Nachova standard”. However, it should be noted that this was too long in the making (2005) and, what is worse, the Court does not apply this criterion with the same intensity in all cases; in fact, in some post-Nachova cases the Court concludes, without further analysis, that the violent incident against a member of the Roma community was not racially motivated either from a substantive (no racial violence) or a procedural point of view (the national authorities fulfilled their duty of conducting an effective investigation of that possible motivation). Examples of these latter cases are *Vasil Saschov Petrov v. Bulgaria* of 10 June 2010²⁴; *Mizigárová*

v. Slovakia of 14 December 2010²⁵ and *Dimitrova and Others v. Bulgaria* of 27 January 2011²⁶. We hope that the failure to recognise racist motives in the assessment of these cases (debatable in every case) was a temporary and fortuitous circumstance and does not reflect a trend to stray from the Nachova standard. In any event, we have an even worse opinion of the *Carabulea v. Romania* Judgment of 13 July 2010. In this case a Roma person was killed at a police station and the courts did not even consider it necessary to examine whether racial violence prohibited under Art. 14 of the Convention played a part in that loss of life. There were two interesting dissenting opinions in this Judgment which I agree with. Both contend that there could have been a racist motive in this case and especially note that this decision distances itself from the Nachova doctrine (which is objectively true because it is the only post-Nachova judgment on police violence which fails to analyse the possible existence of racial motivation).

2) Racist attacks on the street and insufficient judicial protection.

There are only two cases in this category. The first is *Moldovan and others v. Romania* of 12 July 2005 which I believe was settled reasonably. After an altercation in which one person was killed, a local group of people “retaliated” against the Roma community with various acts of violence, burning of homes, etc. The Court ruled that these attacks specifically targeted Roma and that the administrative and judicial authorities had dragged their feet in compensating the damages caused by the destruction of homes. “Apparently, the Roma ethnicity of the applicants was decisive in the outcome of the domestic proceedings” and since the Romanian government offered no plausible explanation for this prejudicial difference in treatment, the European Court concluded that Art. 14 had indeed been violated in conjunction with Art. 6 (fair trial) and 8 (respect for private and family life).

The second case is *Koky and Others v. Slovakia* of 12 June 2012. This concerns a racist mob attack in *Ganovice-Filice* that was triggered by a waitress’ refusal to serve a Roma person at a bar. The Court found that a group of neighbours armed with baseball bats burst into the Roma quarter of the town bludgeoning people and damaging property. The judgment was in favour of the claimants owing to the violation of the procedural dimension of the right to not be subject to inhuman and degrading treatment (Article 3 of the Rome Convention), since the Slovak authorities did not

21 The authorities did not take all steps to investigate whether racial prejudice was at the origin of the events (acts of police brutality during the arrest of two Greek Roma). Such racial prejudice would have been a violation of Art. 3 (prohibiting ill treatment) in conjunction with Art. 14.

22 The victim (Roma) died after falling from a window of a police station in Bulgaria. The Court ruled that there was a violation of Art. 2 of the Convention but not of Art. 14 given that, while citing the Nachova doctrine, unlike the other cases this one does not include any specific evidence that racist attitudes played a role in the events and the applicants did not produce a single fact in this regard.

23 A young Roma man was brutally beaten by a policeman in a clash between security forces and a group of Roma. The Court concluded that the Romanian authorities did not seriously investigate possible racist motives despite the way the police identified him in a bar before beating him: “Are you Romanian or Gypsy?” to which the young man responded that he was Roma. The officers then told him that they “were going to teach him a lesson”.

24 Art. 14 of the Rome Convention was apparently not violated because the claimant, a young Roma man, was shot by the police at night in conditions of low visibility making it impossible to establish racial motivation.

25 A Roma man was killed in a police station, but no racist motives were established.

26 In this case, a member of the Roma community was killed by a private citizen (not a police officer) and no racist motive was proven.



conduct an investigation and the prosecution failed to comply with the Convention (to begin with, the police took an hour and a half to arrive to the scene of the crime).

3) Expulsion of caravans.

In my view, the five judgments handed down by the European Court of Human Rights in 2001 concerning expulsions (from their own land!) for reasons of urban planning are deeply disappointing²⁷. For example, in the *Coster* case the Court found that caravan life formed an integral part of the Roma identity as it is part of the community's long tradition as travellers, even though they may settle for long periods in one place for the sake of their children's education. Therefore, the Court finds that the decision taken by the land use planning services denying the applicants authorisation to live in their caravan on the land they own is considered interference with the right to respect for private and family life (Article 8 ECHR). The next question is to determine whether this is justified or not, i.e. if it is envisaged under law (which it is), if it pursues one or more legitimate purposes (environmental protection in this case) and if it is necessary in a democratic society to achieve such ends. Here the Court extends the national authorities' limits of discretion since, in principle, they are better placed to rule on the situation and local needs. The Court therefore recognises that "it is not in a position to rule on the opinion issued by the national authorities in this matter, according to which the private use of a tract of land raises legitimate land use concerns". The Court "is unable to travel to all places to judge the impact of a particular project on a given region in terms of the beauty of the place, etc." Therefore, "national authorities are, in principle, afforded a wide margin of discretion with regard to land use management policy". And although the Court notes that "there is increasing international consensus within Council of Europe states to recognise the special needs of minorities and an obligation to protect their security, identity and way of life ...", it admits that it is "not convinced that this consensus is sufficiently focused so as to give rise to a set of guidelines concerning the behaviour or rules that States consider appropriate in a given situation ...". In this regard it makes specific mention of the Roma minority: "the vulnerability of Roma ... calls for special attention to their needs and their particular way of life." Art. 8 of the Rome Convention therefore "imposes the positive obligation on States to allow the Roma to continue their way of life." In principle, "the Roma are free to settle at any site for licensed caravans" and "enjoy the right to not be treated in a way inferior to that of any non-Roma who chooses to live in a caravan." However, "it

can be deduced that an insufficient number of sites has been provided to meet the needs of the Roma people to legally set up their caravans at an affordable price." But this has not given rise to an obligation for the United Kingdom to "provide the Roma community with a sufficient number of suitably equipped sites." Therefore, the United Kingdom has not violated Art. 8 of the Convention.

There is a dissenting opinion signed by seven judges, one of which is J.A. Pastor Ridruejo, that do believe that the UK has breached the appellant's right to private and family life because "no alternative location with unoccupied sites was suggested where the claimants could set up their caravans" and for this reason, the expulsion measure is deemed disproportionate. I believe this dissenting opinion to be more consistent than the majority opinion. The Court does not believe that the administrative ban on living in a caravan on a privately owned plot to "protect the landscape" infringes the right to respect for private and family life. The alternative proposed by the state was to cram caravans into special places, which by the way is reminiscent of other dark times (in my view, segregationist policy is, by its nature, suspect of discrimination—which we will also see in the *D.H. and Others v. the Czech Republic* case), but even so there was not enough space for everyone. While the Court recognises that Roma's right to live in caravans is protected under Art. 8 of the Rome Convention, it fails to reverse the decision preventing the appellant from doing so on his own property (because of the State's broad discretion in this domain) nor does it find fault with preventing him from parking his caravan on a site designated for that purpose (because that would be tantamount to converting Art. 8 rights into a right to services). The result: the appellant has a right with a formal shell but void of content since there is no way to exercise that right. A non-existent but effective right to landscape has trumped his right.

4) School segregation

This is a particularly important area. Despite some vacillation as we will see, the Court has maintained a serious stand against the school segregation of Roma children, a common practice in many Eastern European countries (although all states, even Spain, are guilty of this either directly or indirectly). Three judgments have been delivered in this regard: the first is the aforementioned Grand Chamber seminal judgment *DH and Others v. Czech Republic* of 13 November 2007; following that we have *Sampanis and others v. Greece* of 5 June 2008; and *Orsus and Others v. Croatia* of 16 March 2010.

²⁷ Judgments in *Beard, Coster, Chapman, Jane Smith and Lee v. United Kingdom*, all of 18 January 2001.



The *DH and Others v. the Czech Republic* Grand Chamber Judgment is a milestone decision by the Strasbourg Court in the protection of racial minorities, reversing the judgment of this same court of 7 February 2006 which I had the occasion to discuss in another context²⁸. In his dissenting vote the Spanish Judge J. Borrego compared this Judgement to a Formula 1 race car moving very swiftly away from previous case law of the Court. He had a negative opinion of this judgment but personally I hold the exact opposite view: for the first time the European Court of Human Rights incorporated into the realm of racial discrimination (already done in the case of sexual discrimination) the categories of anti-discrimination law typically used in European Union Law (which he specifically cites in the text) and North American law, the latter giving rise, for example, to the notion of "indirect discrimination" which is key to this case. This Judgement updates and modernises the obsolete categorisation of equality and the prohibition of discrimination that the Strasbourg court had been using up to that point. For the first time it judged indirect racial discrimination; for the first time it applied the probative value of statistics to this field; for the first time it incorporated the notion of strict judicial interpretation (called the *strict scrutiny test* in North American law) as concerns racial discrimination; for the first time it ordered the reversal of the burden of proof in cases of indirect racial discrimination or impact. That is what makes this decision important; not only for the solution to the specific conflict addressed but especially because of the doctrine it established in respect of racial discrimination applicable to all future cases. So here we have what is known (also in British legal culture) as a *leading-case*, i.e. a ruling that establishes the doctrine to be applied in the future; what will happen in subsequent cases, regardless of whether or not they focus on the racial segregation of schools.

Also of a propaedeutic nature, we would draw attention to the fact that the Court duly notes the situation of social disadvantage facing the Roma community as a criterion for the interpretation of the case. The Judgement literally states as follows (paragraph 181): "The vulnerable position in which the Roma community finds itself calls for careful consideration of its different needs and lifestyle within general regulatory frameworks and in decisions concerning specific cases". The Judgement goes on to say that "we must safeguard the interests of minorities" while also "preserving cultural diversity which has value for society".

The case focuses on the differential treatment received by Roma children during a period of time in

the Czech Republic, a high percentage of whom were placed in special schools for children with intellectual disabilities. The Chamber Judgement had refused to give probative value to the overwhelming statistical data on discrimination and hence arrived at the conclusion that indirect discrimination was not an issue in this case. In that sense, the Grand Chamber's judgement was a complete turnaround noting that although Court case law "in the past" had refused to acknowledge statistics as evidence in defining a certain practice as discriminatory, in more recent discrimination cases (on the grounds of gender) the Court actually resorted to statistical data in identifying differential treatment between groups (women and men) in similar situations²⁹.

The Court transferred this same methodology, point by point, from the sphere of sexual discrimination to racial discrimination: First of all, the alleged victim of discrimination must submit preliminary evidence, with the aid of statistics, that impact-based (or indirect) discrimination has taken place, i.e. differential treatment between two similarly situated groups even if the differentiating criterion is not racial, in other words, even if it is "neutral" (in this case children's academic capacity and educational needs). It is not necessary to prove discriminatory intent on the part of the authority in question. Secondly, this allegation gives rise to a reversal of the burden of proof meaning that the defendant Government and not the complainant must try to show that the differential treatment (in light of the different impact caused and not because different rules have been set up for each group – for that would constitute direct discrimination) is objective and has absolutely nothing to do with racial discrimination. Thirdly, the judicial body bases its decision in view of the arguments raised.

1. Can differential treatment be deduced based upon the different impact of the measure being challenged? The Judgment first of all points out that as the result of "a turbulent history" Roma have become what can be specifically described as a "disadvantaged and vulnerable minority" requiring "special protection" especially when it comes to the right to education (specified in Article 2 of Protocol No. 1 to the Convention). This case therefore merits "special

28 See: *La discriminación racial en la jurisprudencia del Tribunal Europeo de Derechos Humanos*; Revista Española de Derecho Constitucional, issue No 79, January–April (2007), pp. 279–307.

29 Indeed, in its judgement in the *Hoogendijk v. Holland* case of 6 January 2005 the Court asserted that: "When a complainant is able to prove, based on irrefutable official statistics, the existence of a *prima facie* indication that a specific rule (even when formulated in a neutral manner), in practice, affects a clearly higher percentage of women than men, the burden of proof lies with the defendant Government to show that this is the result of objective factors totally unrelated to discrimination by reason of gender. If the burden of proving that the difference in impact on men and women is not a discriminatory practice did not lie with the defendant Government, it would be extremely difficult for the complainants to prove indirect discrimination".

attention". The Court accepted statistics³⁰ to prove a strong presumption of indirect discrimination.

2. Reversal of the burden of proof. In light of this presumption of indirect discrimination, it was up to the Czech Government to prove that the different impact that its school system had on Roma and non-Roma children had nothing to do with ethnic origin. Or, to put it in more technical terms, it had to prove an "objective and reasonable justification", i.e. that it was pursuing a legitimate aim and that there is a reasonable degree of proportionality between the means used and the aim pursued. The Court significantly added that when differential treatment is based on race (incorporating the criterion of strict judicial interpretation), "the notion of objective and reasonable justification must be interpreted as strictly as possible".

The Czech Government justified the differential treatment afforded to Roma and non-Roma children by pointing to the need to adapt the educational system to the abilities of children with special educational needs. This justification of its academic policy is specifically based on two bodies of data (which it deems neutral and non-discriminatory by reason of race): (1) The children were placed in special schools as a result of their low intellectual capacity measured with the help of psychological tests at centres for scholastic psychology. (2) The final decision to refer the children to special schools depended on parental consent.

3. Arguments and conclusions of the Court. The Judgment did not consider either of the two reasons furnished by the Government (psychological test, parental consent) as objective and reasonable justification.
 - a) Psychological tests. The Court accepted that the system of special schools was motivated by the desire to find a solution for children with special educational needs. However, it shared the concern expressed in the proceeding by other Council of Europe institutions concerning the poor curriculum followed in these schools and the segregation engendered by the system. Moreover, the tests were immersed in

scientific controversy and failed to take account of the specific circumstances of the Roma children. The Court concluded that at the very least there was a danger that the psychological tests and their results were not analysed in the light of the special circumstances of Roma children. And therefore cannot serve as justification for the differential treatment at issue.

- b) Parental consent. In the circumstance of this case the Court did not believe that the parents of the Roma children, members of a disadvantaged community with a low level of education, were in a position to properly assess all of the aspects of the situation or the consequences of their consent. The Government conceded that this consent was given in the form of a signature on an official form which did not furnish information on alternatives or on the curricular differences between ordinary and special schools³¹.

The Court therefore concluded that this case involved indirect discrimination or discrimination in terms of impact causing segregation and fewer opportunities for Roma children. The system, as it was applied in practice, had a disproportionate and damaging impact on the Roma community and therefore violated the prohibition against racial discrimination provided for in the Convention (Article 14) in conjunction with the right to receive an education (Article 2 P.A. No 1).

In the second case, *Sampanis and Others v. Greece* of 5 June 2008, the Court, basing its decision on *DH and Others v. the Czech Republic*, likewise concluded that the practice of denying enrolment of Roma children in a public elementary school and then putting them in quarters annexed to the main building, all of this in the context of racist incidents perpetrated by the parents of non-Roma children, constituted racial discrimination prohibited by the Convention. Although the Court does not use these same categories, clearly this was a direct racial discrimination.

The third case, *Orsus v. Croatia*, is apparently more complex. Here again an initial Chamber Judgment is delivered on 17 July 2008 and later revoked by the Grand Chamber (16 March 2010). The Chamber had ruled that there was no violation of the right to edu-

30 Which showed that 56% of all of the children in special schools in Ostrava were Roma despite the fact that this group only accounted for 2.26% of the total number of primary school students in that town. Moreover, only 18% of non-Roma children were placed in these special schools while the proportion of Roma children placed there was 50.3%. The Court took due note of the fact that the Czech Government did not question these data and failed to furnish any alternative figures. Furthermore, the general statistics from around the country confirmed the Ostrava figures: of the total number of students in special schools, between 80 and 90% were Roma. In the view of the Court, this provides a more general view allowing one to conclude that, even if the figures are not 100% accurate, the number of Roma children placed in special schools is disproportionately high.

31 The dissenting vote of the Spanish Judge J. Borrego, considers this opinion held by the majority of the Court "insulting" because "it judges parents as incapable of educating their children". I cannot agree with this objection because it appears obvious that the parents lacked the information needed to take an informed decision and especially because, as the Judgment very correctly points out, Roma parents were faced with the dilemma of sending their children to the ordinary schools, which were not prepared to make provisions for the cultural and social differences of their children which very likely would condemn them to isolation, or sending them to special schools where they would be with many other Roma children.



cation (Art. 2 of Protocol 1) in conjunction with the prohibition of racial discrimination (Art. 14) in the case of fifteen Roma school children who had been placed in separate classes, the reason given for such segregation was that they were not fluent in the Croatian language. The Grand Chamber Judgment overturned this decision, but not unanimously, but by a narrow margin of nine judges to eight (who issued a dissenting opinion). The decision follows the doctrine of *DH and Others v. the Czech Republic*. It first recalled that the Roma are a disadvantaged and vulnerable minority requiring special protection, especially in the field of education and particularly at a young age³². But a distinction must be drawn between this judgment and that of *DH and Others v. the Czech Republic* and *Sampanis v. Greece*, as this was the keystone of the interpretation made in the Chamber judgment. In *DH and others*, between 50% and 70% of Roma children in the Czech Republic were sent to special schools; in *Sampanis*, all Roma children were placed in a different school apart from the rest of the students. In this case, not all Roma were put in all-Roma classes. Hence, the Court concludes that, unlike the other two cases, statistical data do not establish a *prima facie* case of racial discrimination and, consequently, the reversal of the burden of proof.

However, the judgment further asserts that indirect discrimination can be proven without statistical data. The Court noted that the measure of separating children at school on the basis of insufficient language proficiency was applied to Roma children only in different schools in a region. This measure represents a clear difference in treatment that must be justified as appropriate, necessary and proportionate without the need to prove discriminatory intent on the part of school authorities. The Court concluded that the Croatian government did not provide sufficient justification: it failed to show that this practice affects other non-Roma children who are not fluent in Croatian from other parts of Greece (*ergo* it cannot be interpreted as a measure aimed to remedy a language deficit). Moreover, there are no tests to objectively evaluate language proficiency nor does anyone monitor or control the measure. Furthermore, the school curriculum is significantly reduced in the Roma-only classes. And, as the Court pointed out in *DH and others*, consent from Roma parents is not decisive here.

The dissenting judges considered that there was no racial discrimination in this case and that children were separated on the basis of a flawless neutral criterion: language proficiency. This interpretation is the classic

race-blind vision, i.e. indifference to the racial factor as a determinant of the facts of the case and its verdict. This opinion attempts to assert the rights of children who are fluent in Croatian to not be subject to hindrances in their learning process.

In my view, both the initial judgment in *Orsus* and the dissenting opinion are based on questionable assumptions. The issue is not one of holding back the children who are fluent in Croatian or those who are not. Language proficiency should not be the cause of discrimination of the latter; affirmative action should be exercised to enable them to attend classes in the same conditions as their better prepared classmates. The fact that only Roma children were assigned to the class with lower language proficiency is evidence of overt racial discrimination (possibly both indirect and direct). The case would have been severely distorted had the apparent racial factor not been considered.

5) Discrimination at the border.

In the *Timishev v. Russia* case of 13 December 2005 cited above, the Court considers the refusal to admit "Chechens" at the Russian border. Naturally, it is concluded that this is a case of unequal treatment in the exercise of freedom of movement based on ethnic origin and therefore a violation of Art. 14 of the Convention (in conjunction with Art. 2 of Protocol No. 4). But this judgment has doctrinal value that goes beyond the actual ruling such as, for example, the distinction it draws between "race" and "ethnicity": the two concepts being "connected and overlapped". While "the notion of race" is based on the idea of a biological classification of human beings into subspecies according to morphological features such as skin colour or facial features, ethnicity is rooted in the idea of social groups sharing a common nationality, tribal affiliation, religious faith, shared language, cultural origin or tradition³³.

This judgment upholds the *Nachova* doctrine but adds an interesting statement: "In a contemporary democratic society built on the principles of pluralism and respect for cultural differences, no difference in treatment based solely or decisively on the ethnicity of a person can be justified". This thesis is guided by good intentions, and it makes sense in relation to the prohibition of direct and indirect discrimination (i.e. any treatment that harms members of an ethnic group just because they belong to it), but has not been

³² In defining the meaning of this "special protection", the Court recalls *DH and others* as well as the *Chapman and Carter* case, expounding the thesis of the special need to protect the security, identity and lifestyle of the Roma community to not only protect their interests, but also cultural diversity as a value for the whole community.

³³ However, the Court's analysis is somewhat schematic or superficial in this regard because, after distinguishing between "racial" and "ethnic" discrimination, it does not explain how they "connect and overlap". In my opinion, race as a scientific concept does not exist but racial discrimination certainly does insofar as people attack one another based on the (erroneous) belief that different races do actually exist and, worse yet, that some races (one's own) are superior to that of others. Hence, "racial discrimination" is a sort of broader version of "ethnic discrimination".



thought through because, taken at face value, it would completely prevent any legal difference in treatment such as affirmative action which attempts to equalise the opportunities afforded to ethnic minorities vis-à-vis the majority group. Identical legal treatment would consolidate the *de facto* unequal situation between groups within a society. This statement would only make sense with respect to unfavourable legal treatment of racial minorities and not for favourable treatment.

This "dogmatic" deficit in the *Timishev* Judgment is remedied in *Sejdic and Finci v. Bosnia and Herzegovina* of 22 December 2009 where, after reiterating the differences between "race" and "ethnicity" it points out in paragraph 44 that Art. 14 does not prohibit States from treating groups differently to correct "factual inequalities" between them, i.e. it does not prohibit so-called "affirmative action" (although it does not use that term).

6) Racial discrimination and judicial impartiality in jury hearings.

We will look at three interesting decisions in this area. The first one chronologically is *Remli v. France* of 30 March 1996. A North African on trial claimed that he heard a jury member say that he was racist. However, the court refused to even consider a challenge of the jury for the simple reason that it could not be expected to be aware of events taking place out of its presence. The European Court recalled that "Art. 6(1) obliges all national courts to ensure that, once constituted, they remain impartial" and ruled that the French court failed in that regard since it did not allow for a possible challenge of a racist jury thus infringing this precept. A similar (but not identical) situation arose in the *Gregory v. United Kingdom* jury trial of 25 February 1997. The Strasbourg Court noted that, unlike what happened in *Remli* where the judge took no action whatsoever in response to the claim that an anonymous jury member had made racist statements (a jury member notified the judge that in the private deliberations some fellow jurors had displayed racist attitudes—the defendant was black), the British judge approached the situation of a racist jury from several angles³⁴ since the allegation of racism, while vague, seemed to be founded (and therefore Article 6(1) was not violated). Finally, the *Sander v. the United Kingdom* case of 9 May 2000, was very similar to the *Gregory* case but did have some significant differences. In this case, a juror told the judge that two of his fellow jurors had made racist jokes against the defendant, of Asian origin. Although shortly thereafter all the jurors

stated in writing that this criticism was unfounded, one of them confessed that he had indeed made racist jokes about the defendant. The European Court held that such jokes could not be considered lightly, and certainly not in the context of a criminal proceeding (in "casual or intimate surroundings" this could be seen in a different light). Given "the importance that Member States attach to the need to combat racism," the Court held that the judge "should have reacted more forcefully" (no juror was dismissed). By not doing so, he violated judicial impartiality requirements under Art. 6 of the Convention.

In this instance we do see a demanding European Court which uses its judicial microscope to keep racial prejudice from contaminating in any way the impartiality of the court. The seriousness with which the Court addresses the interpretation of Art. 6 of the Convention (judicial independence and impartiality) engenders this rigorous interpretation, in contrast with the generally weak protection against racial discrimination in other areas of conflict.

7) Racist rhetoric and freedom of information.

In the controversial *Jersild v. Denmark* judgment of 23 September 1994, the European Court ruled that the criminal sanction by the Danish authorities against a television journalist infringed the freedom to inform under Art. 10 of the Rome Convention. The reporter did a report in which he interviewed the spokespersons of a racist Danish group called the *Greenjackets* in which the later asserted that "blacks are not human beings, but animals" and that "they look like gorillas". The judgment, while stressing "the vital importance of combating racist rhetoric in all its forms and manifestations", acknowledged that the freedom of information plays a key role in democratic systems, that the reporter had no racist intent and had simply transmitted these intolerable statements from a neutral position and did nothing to encourage them. In other words, the Court applied the *neutral reportage doctrine* in support of the journalist. It is also true that six judges presented two dissenting opinions claiming that "the protection of racial minorities can not be given less priority than the right to inform." The matter is far from clear, but in the context of Court case law to date it is not surprising that in the balance of interests racial discrimination losses out again.

8) Roma marriage and the right to a widow's pension.

In *Muñoz Díaz v. Spain* of 9 December 2009 the European Court of Human Rights ruled in favour of the right to a widow's pension in the case of woman whose

³⁴ Especially by speaking with the defence and prosecution lawyers and forcefully reminding the jury (without explicitly mentioning the words "racial prejudice") that they must remove "any kind of prejudice" from their minds.



marriage under the Roma rite was not considered legal. The plaintiff was a Spanish Roma woman whom the national authorities had denied a widow's pension because she was not legally married as per the 1971 Catholic rite but rather according to the traditions of the Roma community. Specifically, the Court ruled that this was a violation of the prohibition of racial discrimination (Article 14 ECHR) in conjunction with the right to the enjoyment of one's possessions under Art. 1 of the First Additional Protocol³⁵.

How did the European Court argue the case? Initially, we must note, it refused to consider the Spanish Court's failure to recognise traditional Roma marriage as having civil consequences as a violation of the right to marry under Art. 12 of the Rome Convention or a form of racial discrimination prohibited under Art. 14 of the same Convention. Therefore, the judgment cannot be interpreted as a requirement under the Rome Convention to legally recognise the civil effects of Roma marriage, an issue which in my opinion has rightly been left to the domestic legislation of each country.

The European Court holds that denial of the widow's pension is a discriminatory difference because it is tantamount to different treatment compared to other situations that should be taken as equivalent with respect to the effects of good faith marriage, such as the existence of good faith in marriage annulments (art. 174 LGSS) or the precedent set by Constitutional Court Judgment 199/2004 in which the Court ruled in favour of the right to a survivor's pension in the case of a marriage celebrated in accordance with the law (under the Catholic rite) but not registered at the Civil Register for reasons of conscience. And here is the key point. The Spanish authorities treated the case of María Luisa Muñoz differently from that of other comparable good faith marriage situations. According to the Court, the good faith of the applicant as to the validity of her marriage celebrated in accordance

with the Roma tradition, is proven by the fact that the Spanish authorities themselves recognised the validity of the marriage (or at least the appearance of validity) in different documents: the family record book, large family certificate, social security card and all other official documents. The judgment emphatically asserts: "It is disproportionate for the Spanish State, which issued the applicant and her family...(all of these official documents), to now refuse to recognise the effects of the Roma marriage when it comes to the survivor's pension." The Court also takes into account that in 1971 when they were joined, the Catholic rite was the only valid way to get married (unless the couple officially renounced the Catholic faith first).

The Court then added the ethnic argument to all of this. The judgment first of all emphasises that the applicant's belief that her marriage was valid was also demonstrated by their belonging to the Roma community, "which has its own values within Spanish society". The Court once again reiterates the idea of the new "international consensus" within the Council of Europe "to recognise the special needs of minorities and the obligation to protect their security, identity and lifestyle and, to not only protect the interests of members of such minorities, but also to preserve the cultural diversity that benefits society as a whole". The ruling provides that while minority status does not confer a dispensation from marriage laws, it can influence the way such laws are applied. The Court reiterates its earlier statement that "the vulnerability of the Roma people means that special attention must be paid to their needs and way of life, both in general and in specific cases". This assertion is questioned by the only dissenting judge (Judge Myjer) in whose opinion the Spanish government is not in any way responsible for the ignorance of Mrs. Muñoz (in my opinion this is more of an error than ignorance) and the case pursues the recognition of the validity of Roma marriage (as the Dutch judge points out was reflected in the media).

These (sensitive) words from the judgment about the Roma minority only serve, however, to support the good faith of the petitioner in the logic of the argument proven by other means, as we have seen. They may not have been necessary, in fact, to achieve the same result. In any case, these words have barely anything to do with logic of the main argument because once it was determined that Mrs. Muñoz had been treated differently, without justification with regard to comparable cases, that was proof enough of general discrimination that is prohibited and it is not at all clear what influence the vulnerability of the Roma community has in law enforcement (presumably it would go in their favour). I, on the other hand, do not believe in applying the law in a more favourable way

35 This judgment is noteworthy in terms of its application to Spanish law because it arrives at a different solution than the one reached in Constitutional Court Judgment 69/2007 of 16 April which dismissed the petitioner's appeal and refused to consider the truly unique (and obvious) ethnic circumstances of the case. The Judgment of the Spanish Court is a magnificent example of the *race blind* approach, indifferent to the ethnic factor. The Spanish Constitutional Court has failed to take a strong or strict stand in its interpretation of racial discrimination. It is no coincidence that it has only ruled on two cases (out of dozens of gender-based discrimination suits, for example), that the ruling in both was not in favour of the minority group petitioner suffering racial discrimination and that both of those rulings were overturned by international human rights bodies, the Strasbourg Court and the Human Rights Committee in the Williams case. This latter case, also dismissed by the Spanish Constitutional Court in its judgment of 29 January 2001 (STC 13/2001), involved a police officer who ordered a woman to identify herself just because she was black. The Spanish court ruled that this order could not be considered overt or covert discrimination (even though, out of all of the passenger who got off the train, the petitioner was the only one ordered to identify herself because of the colour of her skin). In a Communication (No 1493/2006) of 27 July 2009 the Human Rights Committee declared this surprising decision an infringement of Article 26 in conjunction with Art. 2(3) of the International Covenant on Civil and Political Rights of the United Nations (right to equality and prohibition of discrimination).



to Roma which, in any case, is highly debatable, but rather in not treating them worse than other people in comparable situations. The 8 December 2009 ruling is not affirmative action and much less positive discrimination as could be deduced from that line of the Court's argument; it is simply redress for an act of discrimination.

In short, despite outward appearances, the Strasbourg Court actually bases its argument on the general clause of equal treatment and not on the specific prohibition of racial / ethnic discrimination. Owing to the peculiar circumstances of the case, one does not have to go beyond the simple facts to arrive at the conclusion that they did. In that sense, the decision is reasonable. But the interpretation chosen greatly limits the likelihood of applying these same arguments. In my view, the conflict presented interesting possibilities of interpretation based on the categories of anti-discrimination law. In particular, the answer to the question of whether the denial of survivor's benefits was a violation of the principle of non-discrimination based on belonging to an ethnic minority must be an unequivocal YES.³⁶

36 In this regard, the Court could have followed two lines of interpretation, individually or jointly.

a) First of all, if we compare the way the applicant and her husband were treated compared to other couples who were denied a survivor's pension for not having been married according to the law, we would have to conclude that this is a clear case of discrimination on the basis of differentiation. From this perspective, the case would violate the constitutional principle of equality, not for treating substantially similar cases differently but rather for treating substantially different cases in the same way. This is discrimination for applying the same rule to everyone regardless of the circumstances. Indeed, there are significant factors that distinguish the case of the Nena from others where the ethnic / racial factor is not an issue. The fact that the applicant was not legally married is not because she was aware and decided to remain legally single but rather because she believed in good faith that her traditional Roma marriage was valid and this error was actually confirmed by Spain's administrative authorities. When the Spanish courts failed to distinguish this type of case from others, they discriminated by treating everyone the same, i.e. by not applying different criteria to situations that are objectively different. The Strasbourg Court had already ruled on the possible validity of discrimination based on non-differentiation in the *Thlimmenos v. Greece* case of 6 April 2000 and this doctrine could have been applied to this case. We should recall the brilliant assertion made by the European Court of Human Rights (*Nachova and Others v. Bulgaria* of 6 July 2005) regarding its vision of "democracy as a society in which diversity is not perceived as a threat but as a source of wealth". And in the judgments *Beard, Coster, Chapman, Smith and Lee v. the United Kingdom* of 18 January 2001 it also held that "the vulnerability of Roma calls for special attention to their needs and their own way of life". It again underscores the idea from the *DH and Others v. the Czech Republic* judgment of 13 November 2008 (paragraph 181): "The vulnerable position in which the Roma community finds itself calls for careful consideration of its different needs and lifestyle within general regulatory frameworks and in decisions concerning specific cases" and adds "cultural diversity (of Roma) has value for all of society". How does this interpretation match up against that of the Spanish Constitutional Court? How do we reconcile the idea that the Roma community requires special protection (*DH and Others* judgment of 13 November 2007), or the notion that cultural diversity (for example, the secular rite of Roma marriage) is a value in a democratic society, with the way this case was treated, i.e. just like any other couple that, without any sort of racial or ethnic motivation, freely decided to make the conscious decision to not get married according to applicable rules? Certainly, the Strasbourg Court has come across the precedent, rejected by the Spanish Constitutional Court (in legal basis two) but used as a key element in its argument, of a legally proper marriage but which has not been registered (*STC 199 / 2004*). As from this point, the European Court does not need to use the more problematic concept of discrimination based on non-differentiation because the outright general discrimination already suffices: the authorities treated Maria Luisa Muñoz differently (worse) without justification, than the applicant seeking a survivor's pension in the other case mentioned. This is the precise point of divergence between the reasoning of

9) Ethnic origin as a cause of electoral ineligibility.

The *Sejdi and Finci v. Bosnia and Herzegovina* judgment of 22 December 2009 is an interesting but strange case which can only be understood within the post-war context. The plaintiffs were a Roma man and a Jew who, for that reason, were denied the right to vote. In other words, since they were not members of the Bosnian, Croatian or Serbian communities they could not vote or be elected to parliament. Naturally, the Court ruled that this reason of ineligibility violated the prohibition of racial discrimination (Art. 14) due to lack of adequate justification.

10) Sterilisation without informed consent.

The most recent area of conflict brought before the Strasbourg Court in relation to racial discrimination has

the European Court and the Spanish Court. The Strasbourg Court took the easiest path in its judgment although personally I am not so sure that the Constitutional Court case *STC 199/2004* is comparable to that of Maria Luisa Muñoz. Here I believe that the Spanish Constitutional Court is more convincing and therefore it would have been preferable to use the concept of discrimination on the basis of non-differentiation. b) If we analyse the way the appellant and her husband were treated in comparison with other legally constituted marriages (the former would not have access to a survivor's pension and the latter would), we would find that the petitioner faces two types of discrimination, both specifically ethnic or racial:

- 1) Indirect racial / ethnic discrimination. As we have seen, the Strasbourg Court has incorporated this concept of indirect discrimination in its case law in the *DH and Others v. the Czech Republic* judgment referred to previously. However, this concept is well known in the European Union legal system and in most European states. In this case, the appellant was treated differently (denial of the survivor's pension) on the basis of a racially neutral trait, factor or criterion (the requirement of legal form of marriage to access the survivor's pension), but which in fact had an adverse impact on people from a disadvantaged group (widows married under the Roma rite) without sufficient justification (the differentiation is not an objective or indispensable requirement for a legitimate public objective, or at least the State has not provided such justification). In principle, the state legislature can link the provision of a survivor's pension to certain forms of cohabitation and not to others for reasons of legal certainty. But to completely exclude a group on the basis of a Roma custom at a time in history when the applicant could not (except in certain limited cases) celebrate a civil marriage, would mean that an entire group of women would be excluded from the possibility of a survivor's pension for ethnic / racial reasons. Therefore, the Spanish Constitutional Court's "race-blind" approach (and despite outward appearances the approach of the Strasbourg Court) is not convincing. And this is because the case cannot be truly comprehended separate from its deeply ethnic meaning.
- 2) Secondly, multiple or intersectional discrimination (combination of ethnic / racial criteria and gender). The concept of multiple discrimination referred to in different EU legal texts has yet to be recognised in court. Maria Luisa Muñoz's case gave the European Court the opportunity to recognise it for the first time. The applicant is treated differently (worse) than widows who were legally married because she is at the same time Roma and a woman, i.e. a Roma woman. Of course a Roma man would have suffered the same discrimination if denied a survivor's pension for the same reasons, but the notion of the widow's pension, while not exclusive to women, does have specific connotations (in quantity and quality) as belonging to women (especially women of a certain age, which raises the issue of discrimination on the basis of age). In this case, a Roma woman has suffered discrimination due to a situation in which all victims are Roma women. The appellant was socially and culturally prevented from working outside the home (for being a Roma woman), the Roma marriage rite was culturally imposed upon her (for being a Roma woman), she had to take care of her husband until his death (for being a Roma woman) but she was declared legally ineligible to receive a widow's pension for a circumstance which would never have been legally applicable to a non-Roma woman or to a Roma man. Although men are eligible for survivor's pensions, most recipients are women, especially in the past when all married women were housewives. It is, therefore, a specific sort of discrimination: multiple discrimination because the victim could only be a Roma woman. In other words, the case can only be fully comprehended if account is taken of gender discrimination.



to do with the sterilisation of a Roma woman without informed consent: *VC v. Slovakia* of 8 November 2011. The applicant was a Roma woman who, in a public hospital after the birth of her second child by caesarean section, was sterilised without prior consent owing to the risks associated with a possible third pregnancy. The Court ruled that this paternalistic intervention had violated her right to informed consent, i.e. her right to personal integrity (Article 3) but it also detected a racially motivated discriminatory bias. The likelihood of this type of intervention is greater in the case of Roma women given the racial prejudice in the country and especially given the idea that Roma women have too many children. As in *Orsus v. Croatia*, the Court based its judgment on the reports of the European Commission against Racism and Intolerance and other European organisations that identify such racist stereotypes and concluded that Slovakia did not have effective safeguards in place to ensure the reproductive health of Roma women and therefore violated the right to respect for private and family life enshrined in Article 8 of the Convention. Although the case had racial overtones insofar as sterilisation without consent especially affects vulnerable people from ethnic groups, the Court did not consider the possible violation of Art. 14 of the Convention because the medical staff did not act in bad faith and there was no evidence of the existence of a systematic public plan for the forced sterilisation of women from this ethnic minority. The dissenting opinion of Judge Mijovic does draw attention, however, to the fact that the racial overtones of the case are crucial to understanding and resolving it.

III. Conclusion: The Strasbourg Court begins to take prohibition of racial discrimination seriously.

In conclusion, two stages can be identified with regard to the way the European Court of Human Rights deals with racial discrimination: the first offering little guarantee and characterised by very poor legal arguments up to the two important judgments, *Nachova*, 2005 and *DH and others*, 2007. The second stage begins after those judgments when the Court begins to take the protection of ethnic equality seriously and incorporates the categories of anti-discrimination law from the Anglo-Saxon system which, in turn, receives input

from the EU. As we have seen, this turnabout had its share of hesitations and setbacks and anti-discrimination concepts have not always been applied correctly. We should recall the two questionable chamber judgments regarding school segregation of Roma children, *Orsus* and *DH* and others. Or how in the last three Court decisions on racial violence (even cases resulting in death) no racial motive was found despite suspicious evidence to the contrary. Or worse still, how the judgment in the recent *Carabulea* case did not even apply the standard established in the *Nachova* case. In some areas, such as the expulsion of caravans, a profoundly negative line of argument is still used. In short, despite undeniable progress, case law still has a number of grey areas.

A weak point in case law continues to be the not very refined use of anti-discrimination law categories. The *Muñoz Diaz* Judgment is a good example of this. The Court bases its argument on the (general) right to equality and not the (specific) right to not be subject to racial discrimination.

Clearly, the Court has been moving down the path towards greater guarantees in response to what it refers to as the "new European consensus" on the protection of ethnic equality. We have seen how the documents of other institutions of the Council of Europe, especially ECRI, have been decisive in some representative Grand Chamber cases such as *Orsus v. Croatia* but also in others like *VC v. Slovakia*. The snapshot which the Court provides us of ethnic co-existence in Europe is enormously worrisome. Violence against ethnic minorities and especially against the Roma people is not a cyclical but a systematic phenomenon; it is not local, but global (although naturally greater where the Roma population is larger, i.e. Eastern Europe); not mild, but extremely serious; not recent, but historical. We are talking about people who are killed or brutally beaten by other individuals and frequently by law enforcement officers, just for being Roma. People who for that same reason have no access to standard education, etc. These are brutal attacks on human dignity and basic rights. In this context, the fact that the European Court of Human Rights is beginning to take the prohibition of racial discrimination seriously is fantastic news.

Appendix: ECHR cases cited.

1) **Racist attacks by law enforcement officers.** Leading-case: *Nachova and Others v. Bulgaria*, 6 July 2005. Other judgments: *Velikova v. Bulgaria*, 18 May 2000. *Anguelova v. Bulgaria*, 13 September, 2002. *Bekos and Koutropoulos v. Greece*, 13 December 2005. *Bekos and Koutropoulos v. Greece*, 13 December 2005. *Ognyanova and Chocan v. Bulgaria*, 23 February 2006. *Stoica v. Romania*, 4 March 2008. *Vasil S. Petrov v. Bulgaria*, 10 June 2010. *Carabulea v. Romania*, 13 July 2010. *Mizigárová v. Slovakia*, 14 December 2010. *Dimitrova and Others v. Bulgaria*, 27 January 2011.

2) **Racist attacks on the street and insufficient judicial protection.** *Moldovan and Others v. Romania*, 12 July 2005 and *Koky and Others v. Slovakia*, 12 June 2012.

3) **Expulsion of caravans.** *Beard, Coster, Chapman, Jane Smith and Lee v. United Kingdom*, all delivered on 18 January 2001.

4) **School segregation.** Leading-case: *DH and Others v. Czech Republic*, 13 November 2007. Other judgments:

Sampanis and Others v. Greece, 5 June 2008 and *Orsus and Others v. Croatia*, 16 March 2010.

5) **Discrimination at the border.** *Timishev v. Russia*, 13 December 2005.

6) **Racial discrimination and judicial impartiality in jury hearings.** *Remli v. France*, 30 March 1996. *Gregory v United Kingdom*, 25 February 1997. *Sander v. the United Kingdom*, 9 May 2000.

7) **Racist rhetoric and freedom of information.** *Jersild v. Denmark*, 23 September 1994.

8) **Roma marriage and the right to a widow's pension.** *Muñoz Díaz v. Spain*, 9 December 2009.

9) **Ethnic origin as a cause of electoral ineligibility.** *Sejdi and Finci v. Bosnia and Herzegovina*, 22 December 2009.

10) **Sterilisation without informed consent.** *VC v. Slovakia*, 8 November 2011.



**Headway made
in combating
discrimination
in 2011-2012**



1. The situation in Europe

I. Evaluation by the European Commission on National Roma Integration Strategies

In May 2012 the European Commission presented a review of the national strategies to improve the economic and social integration of the 12 million Roma living in Europe. Its assessment shows that the majority of Member States, including Spain, have failed to allocate sufficient budgetary resources for the integration of Roma. Only twelve countries have clearly identified the funding allocated, whether it comes from domestic sources or the EU, and have presented specific amounts for the Roma integration policy measures set out in their strategy documents. Those countries are: Bulgaria, Czech Republic, Greece, Latvia, Lithuania, Hungary, Poland, Portugal, Romania, Slovenia, Slovakia and Sweden.

As reflected in the report–evaluation, much still needs to be done to ensure sufficient funding for the integration of Roma and to set up the necessary control mechanisms needed for an effective fight against discrimination and segregation as stated by the European Commissioner for Justice and Vice–President of the Commission, Viviane Reding, who calls on Member States to move forward and continue their efforts with more concrete measures, explicit objectives, funding and effective supervision and evaluation. “We need more than mere strategies on paper. We need tangible results in national policy to improve the lives of the 10 to 12 million Roma living in Europe.”

László Andor, EU Commissioner for Employment, Social Affairs and Inclusion, also said that the integration of the Roma people in Europe is a moral, social and economic imperative for all.

II. *Human Rights of Roma and Travellers in Europe*, Commissioner for Human Rights, Council of Europe.

The book entitled *Human Rights of Roma and Travellers in Europe* is one of the most comprehensive bodies of research published to date on the situation of Roma in Europe.

The study was prepared by the Human Rights Commissioner of the Council of Europe, Thomas Hammarberg, known for his firm commitment to the fight against exclusion of Roma for many years. Many European institutions involved in defending the rights of the Roma also contributed to this project. This book was his farewell work as the Commissioner retired shortly after its presentation in Strasbourg.

The study addresses issues like anti-Gypsyism, human trafficking, barriers to mobility, treatment by the courts in cases of alleged discrimination, recommendations from the United Nations, the Council of Europe and the European Union, cases of forced sterilisation of Roma women, numerous cases of segregation in special schools, lack of legal documents, barriers in access to social security, collective expulsions, right of political participation, treatment in the media, the rise of the extreme right in Europe and other situations which violate the human rights of Roma.

The work illustrates these situations with recent cases collected during the Commissioner’s visits to many of the 47 member countries of the Council of Europe, and covers legal cases and complaints handled by the European Court of Human Rights, a Council of Europe institution.

In the case of Spain, the report highlights the project implemented by the Fuenlabrada local police to prevent ethnic-based arrests (profiling) as a good practice which the Commissioner observed first-hand when he

visited this city in 2011, and the participation of Roma mediators in the ROMED programme. He also made a very positive assessment of the relocation programme to standardised housing in Avilés, Navarre and Madrid, and the "explicit but not exclusive" inclusion policies whereby projects are implemented targeting the Roma population but do not exclude the non-Roma population.

The study makes a thorough and positive assessment of the ACCEDER programme which the Commissioner had the opportunity to see during his visit to the FSG in 2011.

On the negative side, he points out the disproportionate number of Roma women in Spanish prisons and the need to be more ambitious in the implementation of the European directive on racial discrimination. The book also cites the European Court of Human Rights case "Muñoz Díaz v. Spain" as an example of conflict in the recognition of Roma marriages and the right to a widow's pension, as well as cases of segregation in housing and access to employment. The book cites the FSG's shadow report sent to UN- CEDAW (Convention on the Elimination of All Forms of Discrimination Against Women) which points out that family duties are typically the responsibility of Roma women thus hindering their access to employment.

Although the overall balance of the report is negative owing to the overwhelming evidence collected which shows that the Roma population is still the target of very serious discrimination in most European countries, it also highlights positive aspects such the rising number of Roma university students, the strength of the Roma associative movement, the diversity of Roma reality and culture and the important role played by Roma women as the driving force behind social change.

III. European Union Agency for Fundamental Rights (FRA) and the Roma population

According to a new report released in May 2012 by the European Agency for Fundamental Rights (FRA) and the United Nations Development Programme (UNDP), many Roma continue to face discrimination and social exclusion across the EU. On average, the situation of the Roma population is worse than that of its non-Roma neighbours. The report is based on two surveys conducted on the socioeconomic situation of the Roma and non-Roma populations living in the same areas in eleven EU Member States and neighbouring European countries.

According to the Director of the FRA, Morten Kjaerum, *"The survey results convey a bleak picture of the current situation of the Roma population in the eleven EU Member States surveyed". "Discrimination and prejudice against Roma persists. The results indicate that swift and effective action is needed aimed primarily at improving the education of the Roma population. This is critical to unleash future potential and provide young Roma with the skills required to break the vicious circle of discrimination, exclusion and poverty."*

The FRA has also published its 2012 Annual Report. The report devotes a large section to the situation of the Roma people and points to the alarming increase in incidents of anti-Roma discrimination in some EU countries.

In June 2012 the FRA invited the Coordinator of the FSG's Area of Equal Treatment and Non-Discrimination, attorney Sara Giménez, to become a member of the FRA Advisory Committee. With this appointment the Advisory Committee will have for the first time a person representing the Roma community, with extensive experience in anti-discrimination policy and legislation.

IV. New ECRI Recommendation on anti-Gypsyism.

The European Commission against Racism and Intolerance (ECRI), an independent oversight body in the field of human rights specialising in issues of racism and intolerance, has published an important General Policy Recommendation to combat anti-Gypsyism (*General Policy Recommendation No. 13 on Combating anti-Gypsyism and Discrimination against Roma*).

The recommendation takes a detailed look at all forms of discrimination against the Roma people in Europe today and urges the 47 member states of the Council of Europe to take clear and decisive action to combat Romaphobia, and improve communication between public authorities and Roma. It also proposes several measures to prevent segregation and discrimination against the Roma in areas such as education, employment, health, access to services and housing.

The recommendation also discusses the numerous crimes and racist attacks against the Roma population in Europe, and discriminatory practices of police and media towards the Roma people.

V.



VI. European Directive on victims of violent crime.

In October 2012 the European Parliament and the Council adopted a new European regulation that establishes minimum standards at European level to protect victims of violent crime. This is Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 laying down minimum standards on the rights, support and protection of victims of crime. The new legislation allows people to exercise the same basic rights and use the justice system wherever they are in the EU. This is a historic achievement and a clear sign

that Europe is achieving tangible results in terms of the rights of citizens.

The standard includes protection of particularly vulnerable victims, especially children and people with disabilities, *and victims of assaults motivated by racial prejudice, intolerance or hatred* (based on ethnic origin, sexual orientation, gender identity, etc.).

Often such attacks occur in different European countries against EU citizens of Roma descent who will now be able to assert their rights even if the incident occurs in an EU country other than their country of origin.



2. National

I. National strategy to combat racism, racial discrimination, xenophobia and other related forms of intolerance

The National Strategy against racism, racial discrimination, xenophobia and other related forms of intolerance approved on 3 November 2011, is a document that contextualises the situation of discrimination, racism and xenophobia in our country, addresses the actions taken by Spain thus far and sets out the objectives and measures to be put into operation to eradicate all forms of discrimination, racism, xenophobia and intolerance. Implementation of this strategy was negligible in 2012 and it is therefore vital to boost its implementation in 2013.

It is important to bear in mind that the strategy addresses the need for joint and coordinated work between government and civil society to address this issue effectively.

The Fundación Secretariado General Gitano, as a member of the Council for the advancement of equal treatment and non-discrimination of persons for reasons of racial or ethnic origin, and other social organisations were actively involved in its preparation and submitted appropriate amendments to promote the fight against discrimination of the Roma community.

We would note that the final Strategy document refers to the recommendations of various European organisations in this field which underscore the discrimination experienced by the Roma community: the report from the Committee on the Elimination of All Forms of Racial Discrimination (CERD), the examination of Spain by the Human Rights Council in 2010, the fourth report on Spain by the European Commission against Racism and Intolerance (ECRI), etc. The Strategy also addresses multiple discrimination as defined in the EU-Midis Report No. 5 of the Fundamental Rights Agency, situation especially affecting Roma women.

The Strategy focuses on the following areas:

- It contextualises the situation of aliens in Spain and that of Roma, noting that the Roma community is still the one facing greatest rejection by society; it also addresses discrimination based on religion or belief, the situation of unaccompanied minors and applicants and beneficiaries of international protection.
- It describes the actions taken in this area by the Spanish government with special mention of the Action Plan for the Development of the Roma Population 2010–2012, the reports, studies and surveys on the situation of racism, racial discrimination, xenophobia and other related forms of intolerance in Spain which highlight the lack of a data collection system on racist violence or incidents, the need for training of key agents and the situations of discrimination that exist in access to employment, housing, social services and education.

In this regard, special mention is made of the opinions issued by the Council for the advancement of equal treatment and the Panel on the Perception of racial or ethnic discrimination attached to that 2010 Council.

- They analyse the different areas where discrimination, xenophobia and other related forms of intolerance are prevalent and propose objectives and measures to implement with regard to the Internet, education, access to goods and services, housing and the media, highlighting in this latter area the worrisome proliferation of news stories which associate the Roma community with negative or criminal acts.

The Strategy provides an ideal framework to develop concrete measures that are essential to combat racism, xenophobia and related forms of intolerance in our country. Currently, one of the measures set out in this



strategy and which we consider very important is the reform of Art. 510 of the Criminal Code now under way through a draft bill to amend Organic Law 10/1995 of 23 November 1995 on the Criminal Code, transposing Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law.

In these times of economic crisis where outbreaks of racism, discrimination, hatred and intolerance are a major concern, Spain must firmly implement the measures set out in this strategy to protect one of our most important democratic principles, Equality.

II. Study on segregation and the Roma community

In 2012 the Federation of Roma Women (KAMIRA) and the Mario Maya Foundation published a study that looks into the question of ghetto schools or schools with a majority of Roma pupils to evaluate the characteristics of the problem, publicise it and to seek measures to help mitigate or remedy the situation.

They visited 23 schools in different districts of Barcelona, Badajoz, Madrid and Cordoba where Roma are present but where that segment does not exceed 50% of the total population of the district. In all the schools visited it was found that the percentage of Roma pupils was much higher than the percentage of Roma who lived in the neighbourhood. They found no reasonable cause that could justify this higher percentage of Roma pupils and therefore concluded that these schools were segregated.

Although the study is not intended to be representative of all of Spain given the small sample of schools and cities studied, the data produced are an important indicator of the possible existence of de facto school segregation of part of the Spanish Roma population.

The study also proposes a series of measures to education authorities to mitigate this serious problem:

- We need accurate information regarding the educational situation of the Roma population based on statistical data broken down according to ethnic group, gender and other factors.
- The education administration must acquire a keener awareness of the seriousness of this problem and how to impose and seek solutions to avoid situations of inequality or discrimination in education.

- Rules are needed to ensure a balanced distribution of students to avoid segregation or over-representation and students need to be progressively relocated to nearby schools to prevent the concentration of Roma students in a single school. This will require reviewing districts and enrolment criteria.
- Greater flexibility is needed in assigning students to schools, particularly in the transition from primary to secondary school, with a view to preventing the re-concentration of minority students in a single school.
- Great efforts are needed to strengthen ghetto schools with projects such as "learning communities" since experience has shown such practices are successful and lead to positive results.

The full study is available at: http://federacionkamira.org.es/Que_hacemos_-_proyectos_files/Informe%20S...pdf

III. Strategy for Social Inclusion of the Roma Population in Spain 2012–2020

On 2 March 2012, at the proposal of the Ministry of Health, Social Services and Equality, the Government Cabinet approved the "Strategy for the Social Inclusion of the Roma Population in Spain 2012 to 2020".

The FSG, which actively participated in this process, made a positive assessment of the strategy and of the process that made it possible: the EU Framework for National Roma Integration Strategies. This framework is a milestone in the history of the Roma community in Europe and in Spain since, as stated by the European Commission in its communiqué published on 5 April 2011, it is the first time that a common framework has been set up for the development of measures and policies at national level based on approaches, objectives and areas of work shared by all Member States.

The Spanish strategy is a benchmark among those presented by European governments insofar as it includes specific targets and medium and long term progress indicators and has emerged from a broad consultation process planned and developed in collaboration with the regional governments, agencies of Local Government and in consultation with Roma associations. Also, it includes aspects that are essential for the inclusion of the Roma population that go beyond the requirements of the European Commission such as a transversal gender approach, combating discrimination, promoting the participation of the Roma population, fostering culture



and knowledge and attending to the needs of Roma from other countries.

This strategy has become what is now known as the “Spanish model for Roma Inclusion”, focusing on the areas of work that have the greatest impact on the social inclusion of the Roma population (employment, education, health and housing), featuring general inclusive policies combined with specific measures, as in the case of this Strategy. This strategic approach—European and national—is in line with the approach that the FSG has advocated and applied for many years.

We were also happy to see that the research that the FSG has been conducting in recent years (such as Roma employment studies, the housing map, the health survey and research on educational mainstreaming) were considered as valuable reference material for the strategy and in measuring its achievements, and its mention of the EURoma Network led by the FSG as a clear leader in Europe.

The strategy sets out the four key areas for social inclusion: Education, Employment, Housing and Health. In each of these it sets quantitative targets specified in percentages of the population for 2020 and several intermediate goals to achieve by 2015.

Education

In the field of Education the aim is to increase enrolment in pre-school, universal enrolment in compulsory school and to enhance the academic success of students in primary school. It also proposes an increase in the percentage of students who complete compulsory secondary education (ESO) and an increase in the educational level of Roma adults. At present, 96.7% of school-age Roma children do attend school, compared to 99.9% of the general population. We would like to see this figure at 99% by 2020. The high enrolment rate contrasts with other data: only 1.6% of the adult Roma population has reached the non-compulsory secondary level of education compared to 19.5% of their non-Roma counterparts, and the illiteracy rate stands at 13.5% for Roma compared to 2.19% for Spain as a whole.

Employment

Here the Strategy proposes improving access to standard employment and reducing job insecurity. It also sets targets to improve the professional skills of the Roma population. Objectives include reduction of the unemployment rate currently at 36.5% for Roma (22.5% for the general population).

Housing

The eradication of slums and substandard housing and improving housing quality are some of the most important elements to improve the social inclusion of the Roma population.

It is estimated that currently 3.9% of this group lives in slums.

Health

The area of health is also key in preventing exclusion. Therefore, Strategy objectives include improving the overall health status of the Roma population and reducing social inequalities in the area of health through intervention with adults and children.

Supplementary lines of action

In addition to these four areas, the Strategy provides for supplementary lines of action in the field of social action, participation, raising awareness with regard to this group, equality of women, non-discrimination, promotion of culture and special attention to Roma from other countries.

Surveys and studies are planned to compare the situation of the Roma population with the rest of the Spanish population as a way to monitor and evaluate the implementation of the objectives at national and European level. Statistical studies will also be developed to verify achievement of objectives.

IV. Activities undertaken by the Council for the advancement of equal treatment and non-discrimination of persons for reasons of racial or ethnic origin in 2012

The mission of this Council is to promote the principle of equal treatment and non-discrimination in different areas of people’s lives such as education, health-care, benefits and social services, housing and access to any type of good or service¹.

In its three years of existence the Council has focused most of its activity on assistance and support of victims of discrimination and on data collection and preparation of studies and reports on the state of discrimination in Spain.

¹ Royal Decree 1262/2007 of 21 September 2007.



The FSG's area of equal treatment has been actively involved in all of the activities undertaken by the Council in 2011 and 2012, most especially in the group providing assistance to victims of discrimination which we coordinate and offering this service as part of the network of centres assisting victims of discrimination

In 2012, the Council's work culminated in the publication of the following reports²:

1) Panel on discrimination based on racial or ethnic origin (2011): the perception of victims

This study seeks to understand how the people in groups liable to face racial or ethnic-based discrimination perceive discrimination and to what extent and how they experience it in their daily lives. It also seeks to shed light on the way this perception evolves over time and to that end the study explores some aspects of interest identified in the first study conducted in 2010. This new report features an in-depth study of employment and training which led to the development of a separate thematic report on discrimination in the field of employment.

We would highlight the following results:

The perception of the degree of racism in Spanish society remains at levels similar to those of 2010, with a slight decrease in 2011 (4.60 versus 4.87 out of 10). The Roma and sub-Saharan African populations are still the ones which experience the greatest levels of discrimination and are likewise the ones most likely to perceive the Spanish society as racist.

To gauge the perception of possible discriminatory treatment, those surveyed were asked if they believe there is more or less discriminatory treatment than one or two years ago. In 2010, 43.7% considered that the discrimination had increased over previous years. In 2011 that number increased to 46.2%.

Limited understanding of discrimination and varying degrees of awareness. The predominant view of discrimination links it to unequal treatment and humiliation although a surprising 26.4% claim to not know the meaning of discrimination or racism.

However, 32.7% of those surveyed said they had experienced a situation of discrimination in the past twelve months and, just as in 2010, that percentage was much higher among the sub-Saharan and Roma populations (48% and 38 % respectively).

One of the more telling bits of information from the study was the lack of awareness of discrimination judging by the high proportion of people (62.4%) who initially said they had not suffered any discrimination in the previous year but who, during the course of the interview, described discriminatory treatment in different areas of their lives. Nevertheless, this figure is 7 points lower than in 2010 so we can conclude that the level of awareness about what discriminatory treatment actually is has increased.

The area in which discrimination is perceived and action taken: the study establishes an indicator of perceived discrimination called the discrimination rate and which reflects the proportion of people who have felt discriminated against in different fields. The work environment, with an increase of three percentage points compared to 2010, is the area with the highest discrimination rate. It is followed by public establishments, leisure centres and access to goods and services. Next comes police discrimination and discrimination in the areas of housing, education and health-care. The rate declined slightly in all of these areas compared to 2010 while local government was the area with the least perceived discrimination in 2011.

As was already detected in the 2010 study, the number of discrimination complaints registered continues to be very low in Spain. Only 7% of those who faced situations of discrimination filed a complaint.

2) Annual report on the state of racial and ethnic discrimination and application of the equal treatment principle.

The study aims to describe the state and evolution of racial and ethnic discrimination against people living in Spain while also presenting an overview of progress made during 2011. The study analyses the national and international regulatory framework, the situation in the courts and the most salient aspects of the social perception of discrimination in our country. The report also includes a chronological compilation of press clippings and a selection of positive experiences carried out in 2011 in the promotion of equal treatment and non-discrimination.

The study arrives at the following conclusions:

The legal situation: Spain has an extensive system of protection against discrimination and European anti-discrimination directives have been transposed, but it needs to be strengthened and its effective implementation ensured. In these uncertain times, while it may seem that priorities are elsewhere, now is when the greatest effort must be made to provide public policy and regulations to adequately guarantee respect of the

² All publications are available on the Council website: www.igualdadynodiscriminacion.org under useful resources / publications.



right to equality and non-discrimination. It is also vitally important for the key players, both within and outside of public administration, to work in a more coordinated fashion and several of the positive experiences featured in the report are valuable examples of work in this direction.

In the sphere of social perception: our society has made strides in the acceptance of diversity and multiculturalism. However, data show some worrying trends in the form of reactionary and exclusionary rhetoric which is spreading in this context of economic crisis and unemployment. Better laws and greater political engagement are needed to deal effectively with this situation which is conducive to discrimination. From among the measures adopted, it is encouraging to see the gradual establishment of specialised services to combat discrimination at the disposal of provincial prosecutors and we would like to see this extended to the rest of the public prosecution offices around Spain. We also applaud the good news of the appointment of a Chamber Prosecutor at the State Prosecution Service and the development of protocols at the Justice Administration and the Security Forces.

3) Annual report on the 2011 results of the Network of Assistance Centres for Victims of Discrimination based on Racial or Ethnic Origin

In June 2010 the Council created the Network of Assistance Centres for Victims of Discrimination based

on Racial or Ethnic Origin. This network was formed by different organisations all of which are working to achieve equal treatment for different vulnerable groups of the population. ACCEM, the Spanish Red Cross, CEPAIM Foundation, Movement against Intolerance, Movement for Peace, Disarmament and Freedom, Red Acoge, Romani Union and the Fundación Secretariado Gitano, the coordinating body of the Council working group in charge of this area, all participated in 2011.

In 2011 these organisations established 128 service touch points and responded to a total of 590 incidents of discrimination (337 individual and 253 collective).

The three most prevalent areas of discrimination in the individual cases were housing (24%), citizen security (law enforcement officials) (19%) and employment (17%).

Regarding collective cases, the three most important areas in terms of the number of discrimination cases were: the media and the Internet (39%), employment (22%) and housing (9%). Lastly, we would point out that, in general, the discriminatory incidents recorded by Network organisations were examples of direct discrimination, both in individual cases (79%) and collective ones (89%).



**Positive
developments in
the field of anti-
discrimination**



1. Platform for Police Management of Diversity



Plataforma por la Gestión Policial de la Diversidad

The *Platform for Police Management of diversity*¹, has been working since 2010 to encourage and promote change in police services and improve operating procedures to ensure a diverse society and non-discriminatory police action, especially with regard to the most vulnerable minority groups.

In early 2012, this platform received support from the Open Society Foundations (Soros Foundation) to develop a series of activities in order to achieve the following objectives:

- To encourage and recognise the positive practical experiences and innovative procedures of local police forces regarding the policing of diversity.
- To implement projects to control and supervise the influence of ethnic profiling in police action in some local Spanish police departments.
- To provide practical training and support materials in police management of diversity.
- To facilitate change in police practices to promote equality and non-discrimination as models in Spain and Europe.

The following activities were carried out in 2012 through this project:

- *Local Police Awards*. On 9 February 2012 in the City of Toledo and coinciding with SeguCITY the *First National Meeting of Local Security Officials*, the Platform for Police Management of Diversity presented their awards for the best initiatives and fine work done by law enforcement officials to bring about change in procedures and improve policing in a diverse society.

The three categories of the awards were:

- Recognition of professional commitment to the management of a diverse society: awarded to Corporal-Chief of the Citizen Service Office in the Usera District of the Madrid Municipal Police, Manuel García Vargas, for his outstanding professional commitment to managing a diverse society, especially among the immigrant population residing in the Usera neighbourhood of Madrid.
- Recognition of Police Training for the Management of a Diverse Society: awarded to the Valencia Institute of Public Safety (IVASP) of the Regional Government of Valencia for the development and implementation of the First Action Plan for Local Police Forces of Valencia to deal with possible situations of racism and xenophobia.
- Recognition of Best Practices in Policing a Diverse Society: awarded to the local police of Fuenlabrada (Madrid), for the set of measures and actions developed for the management of a diverse society that this corps of officers has been developing since 2007, contributing significantly to guaranteeing the rights of the most vulnerable social groups and fair and non-discriminatory policing. This has been recognised as one of the international benchmarks among police institutions in managing diversity.

¹ This following organisations are currently members of the platform: UNIEPOL (National Union of Local Police Chiefs and Managers), the RAIS Foundation, the Pluralism and Co-existence Foundation, the Spanish Confederation of Organisations for People with Intellectual Disabilities (FEAPS), the Spanish Federation of Gays, Lesbians, Transsexuals and Bisexuals (FELGTB), the Spanish Catholic Migrations Commission Association (ACCEM), the CEPAIM Foundation, Movement against Intolerance, the Acoge Network and the Fundación Secretariado Gitano. The Open Society Justice Initiative (Soros Foundation) and Amnesty International are collaborating organisations.



- Preparation and publication of the *Guide for directors and senior police officers on policing diverse societies* to raise the awareness of the authorities responsible for public security and police leaders and commanders of the need to include the management of diversity among public security policies. This is a useful and practical tool based on real experiences for managers and commanders of the Security Forces to help them improve their skills in all matters relating to the management of social diversity and combating discrimination in their daily work. This guide, which will be published in the first quarter of 2013, will provide information to help improve the rapport between police and groups that are often subject to discrimination and to raise awareness and train law enforcement authorities to combat discrimination and give greater attention to cultural and social diversity, serving to provide society with a service best suited to its needs within the framework of current laws.
- Implementation of the *Programme to Identify Effective Police* (PIPE) in three Spanish cities: Castellón, Malaga and La Coruna. PIPE is a programme that aims to improve police procedures regarding identification of people in public places, maximising the effectiveness of these identifications while trying to prevent any kind of racial or ethnic bias. Another objective of the programme is the creation or improvement of channels of communication and cooperation between local municipal police and civil society to strengthen the dynamics of coexistence and promote mutual understanding. This programme is based on the procedures developed in the European project STEPSS in which the local police of Fuenlabrada, a UNIJEPOL member, actively participated.

For further information of the activities of this platform see: <http://www.gestionpolicialediversidad.org>



2. Spanish Observatory against Racism and Xenophobia OBERAXE

I. Diversity Management in Professional Environments (GESDI) OBERAXE

The Spanish Observatory on Racism and Xenophobia, attached to the General Secretariat for Immigration and Emigration, Ministry of Employment and Social Security, has coordinated this project within the framework of the European Union Programme for Employment and Social Solidarity (PROGRESS) taking aim at improving equal treatment and diversity management in the workplace and reinforcing the positive image of the integration of immigrants and ethnic minorities in the field of business and professional environments.

Actions are designed to:

- Work directly in professional environments such as companies and business organisations and with key stakeholders who are implementing or are interested in setting up diversity management processes within their organisations.
- Identify success stories and best practices concerning the integration and management of ethnic and cultural diversity in the professional world, both at national and European level.
- Develop tools to support organisations in their analysis of the state of immigrants and ethnic minorities at the workplace.
- Communicate to raise the awareness of the business community and organisations.

This programme has been instrumental in publishing and distributing the handbook entitled *Managing Diversity at the Workplace*² focusing on equal treatment and non-discrimination based on racial or ethnic origin.

2 Available in English and Spanish at the following links: <http://www.oberaxe.es/files/es/files/datos/4f016d0cf0f2a/GUIAGESDI.pdf> <http://www.oberaxe.es/files/es/files/datos/4ef0856dcaa07/GESDIINGLES.pdf>

It provides indicators as a tool for self-diagnosis and analysis of cultural diversity management within the framework of equal treatment and non discrimination in the areas of human resources, communication, organisational commitment and organisational processes of companies. The guide also includes a list of success stories and best practices and recommendations for the proper management of cultural diversity in professional settings.

Project methodology has been highly participatory allowing for consensus in terms of content and processes and documents produced. Help comes from a panel of business and academic experts and a large validation group composed of: companies and business organisations, NGOs, immigrant associations and other entities such as unions, the public sector, and universities and business schools.

II. Training Project for the Identification and Registration of racist incidents (FIRIR) OBERAXE

The Spanish Observatory on Racism and Xenophobia, attached to the General Secretariat for Immigration and Emigration, Ministry of Employment and Social Security, developed this project in 2012 under the European Union Programme for Employment and Solidarity (PROGRESS).

The project focuses on the effective implementation of the principle of non-discrimination through training in equal treatment and non-discrimination based on racial or ethnic origin targeting state police and security forces in this area specifically for the detection and, where relevant, the registration of "racist incidents".

Training activities targeted 2,690 specialists from the Civil Guard, National Police, Ertzaintza (Basque regional



police), Mossos d'Esquadra (Catalan regional police), Navarre Regional Police and local police, and a manual was produced to that end entitled *Support Manual for Training law enforcement officials in the identification and recording of racist or xenophobic incidents*³.

The manual contains a diagnosis of the situation in Spain and stresses the need to identify and investigate rac-

ist or xenophobic incidents and analyse the international and national perspective on training in connection with the registration and identification of racist incidents. It also looks at, inter alia, police actions to identify racist or xenophobic incidents, good police practices with special emphasis on preventing racial profiling, support for victims, the importance of training, the need to record racist or xenophobic incidents and recommendations for the development of a policing protocol for racist or xenophobic incidents.

3 Available in Spanish and English at: <http://www.oberaxe.es/files/datos/50b77a85906d4/FIRIR%20Manual%20interactivo.pdf>, <http://www.oberaxe.es/files/datos/50bc5eaef631/FIRIR%20Handbook%20for%20training.pdf>



3. Report to the Committee on Economic, Social and Cultural Rights

On 7 and 8 May Spain reported to the [United Nations Committee on Economic, Social and Cultural Rights \(CESCR\)](#) in Geneva. This Committee is responsible for monitoring the status of economic, social and cultural rights (adequate housing, health, dignified employment, quality education, among others) recognised in the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR) ratified by Spain in 1977.

The Fundación Secretariado General Gitano (FSG), along with 18 other organisations, recently presented a report to the members of this Committee, seizing the opportunity to show an alternative view on the social rights situation in Spain and exposing their concerns directly to the ESCR Committee members.

This report includes contributions made by the FSG showing that the Roma community in Spain is at a [disadvantage](#) with respect to several social rights that are fundamental to achieving social inclusion, highlighting the area of education, employment, health, housing and non-discrimination and pointing out that integration policies are not sufficiently cross-cutting or efficient.

Already in 2004 the CESCR noted in its General Comments that despite various government initiatives, [the Roma people "remain marginalised and their situation in Spain is still vulnerable, especially in regard to employment, housing, health and education"](#).

The following topics were addressed specifically:

Discrimination

The Roma community has traditionally been the most discriminated, stereotyped and socially excluded ethnic group in Spain. 52% of Spanish people interviewed in a study conducted by the Centre for Sociological Research said they felt no or very little warmth towards the Roma community. According to data from the 2009 Eurobarometer, Spanish citizens believe that

discrimination based on ethnic origin is the most pervasive in their country.

In 2010 the Spanish government approved the 2010–2012 Action Plan for the Development of the Roma Population. Despite being an ambitious plan with numerous areas of activity within the sphere of the ESCR, it did not include a [gender perspective](#), namely the multiple discrimination faced by Roma women and girls, as a guiding principle for its action. According to the FSG's latest Discrimination and Roma Community Report, 69% of Roma victims of discrimination are women and a third of the cases of racism detected by this organisation were related to racism and stereotypes of Roma [in the media](#).

Employment

The Roma community faces major obstacles in accessing the formal labour market (and therefore has less access to social security benefits) and is especially likely to be offered temporary and unstable employment. The unemployment rate is also higher for the Roma population. Recent data from the Fundación Secretariado Gitano show that today's [unemployment rate of the Roma community \(36.4%\) is excessive when compared to the national average](#). Furthermore, over 14% of unemployed Roma are young people between the ages of 16 and 19. [The unemployment rate among Roma immigrants from Eastern Europe is also high \(34%\)](#) according to a new employment report that the FSG will present this year.

Education

The Roma community [illiteracy and school dropout](#) rate are much higher than the national average and it is also under-represented at higher levels of education. Segregation in a significant number of cities and towns has led to "ghetto schools" for immigrant children and Roma. There is a disproportionately high percentage of



disadvantaged students in these public schools compared to their proportion in the general population.

Housing

Despite efforts made to reduce the extreme exclusion of this ethnic minority, a large proportion of the Roma community continues to reside in substandard housing. 27% of the houses inhabited by Roma are substandard and 12% are shacks or similar.

Health

There are also large differences in many health indicators compared to the general Spanish population, including life expectancy which is 8–9 years less for Roma than the national average.

The report presented to the CESCR notes that the Spanish government must make a greater effort to change the negative perception that people have of the Roma population, establish appropriate research mechanisms and be more forceful in sanctioning hate rhetoric and racist comments in the media, including Internet. To this end, the 2012–2020 Strategy for the Social Inclusion of Roma in Spain needs to be closely monitored to assess its implementation and proper execution.

After Spain's appearance before the United Nations Committee on Economic Social and Cultural Rights, the latter expressed its concern over the reduction in the degree of effective protection of rights such as housing, health, education, labour and others as a result of the austerity measures.

The Committee stressed the inadequacy of the measures taken by the State to mitigate the negative effects of the crisis on the poorest sectors of the population and encouraged Spain to make a greater effort to let human rights guide the economic recovery strategy. The Committee also recommended that Spain guarantee that all the austerity measures implemented maintain the achieved level of protection of economic, social and cultural rights and to make sure that such measures are temporary, proportional and do not erode these rights.

This committee, composed of 18 independent experts of different nationalities, is responsible for monitoring the compliance of States parties with their obligations under the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by Spain in 1977. Each State Party is required to report regularly to the Committee in Geneva on the state of economic, social and cultural rights.

Recommendations for Spain:

In its final recommendations published on 21 May 2012, the Committee calls on Spain to review the austerity measures given that they take a "disproportionate" toll on the most vulnerable and marginalised groups, especially the poor, women, children, disabled people, unemployed adults and youth, the elderly, the homeless, Roma, migrants and asylum seekers. It also reminds Spain that it is precisely in times of economic crisis when a particularly concerted effort must be made to ensure the human rights of all persons, without discrimination, especially the most vulnerable.

The Committee "strongly" recommended that Spain adopt a new **comprehensive national anti-poverty programme** that includes "specific measures and strategies to mitigate the adverse effects of the crisis". The Committee emphasised the high rates of child poverty and the situation of the elderly living with pensions which are often less than what is considered minimum subsistence.

Regarding the labour situation, the report expressed concern about the **rising rates of unemployment** especially affecting young people, immigrants, Roma and disabled people. It calls on the government "to avoid any deterioration" and that includes the protection of the labour rights of workers." It also expresses concern about the freezing of the minimum wage at a level that does not permit a decent standard of living and recommends periodic cost of living adjustments.

As for equality between men and women, the Committee calls for greater efforts to combat the pay gap and gender stereotypes and promote equal representation in public and private sectors. The Committee is particularly concerned about the **"persistence of high levels of domestic violence"** and urges the State to ensure that the cuts "will not adversely affect the protection of victims and their rights." It also recommends ensuring equitable access to voluntary interruption of pregnancy throughout the country.

Regarding recent Decree-Law 16/2012 on **health reform**, the Committee calls on the government to ensure access to health services for all persons residing in Spain, whatever their legal status, in line with the principle of universality of health benefits. It also urges the government to "fully enforce the new regulations to improve living conditions in alien internment centres (CIE)".

Regarding the situation of **those who are unable to make their mortgage payments**, it urges the government to "foster legislative reform authorising transfer of the property in lieu of payment of the mortgage debt



so that this option does not rely solely on the discretion of the banks.” It also notes the need to “increase the supply of social housing”, especially rental housing, and **the need to implement a legal framework safeguarding the human rights** of those facing **eviction**. It reminds the government of its obligation to adopt an official definition of **“homeless”**, to collect data to evaluate this situation in the light of the crisis and to take appropriate remedial measures.

The Committee was critical of the fact that **education** was one of the sectors most affected by the cuts and said that the measures taken by the State to increase tuition fees are “regressive” and put disadvantaged groups and individuals “at risk being excluded from university education”. It recommends that the government ensure “a sustained and sufficient economic and budgetary investment” in education and intensify efforts

to reduce the school dropout rate which is double the EU average.

Discrimination, especially towards migrants and Roma and people with disabilities, is one of the cross-cutting areas of concern. In this regard, the Committee calls on the government to adopt a Comprehensive Law on Equal Treatment and Non-Discrimination. It also calls for the decentralisation of competencies related to economic, social and cultural rights and a reduction in the disparities between regions in terms of social investment which stand in the way to “fair and non-discriminatory enjoyment of these rights in the 17 communities. Given the decline in official development assistance (ODA), it calls for a rise in development cooperation to a level of not less than 0.7% of GDP in compliance with the international commitments undertaken by Spain.



4. Activities carried out by the FSG

I. Training targeting key players in the fight against discrimination

The Fundación Secretariado Gitano's Area of Equal Treatment has continued in 2011 and 2012 with its line of work in training and awareness-raising of key stakeholders in promoting equal treatment and combating discrimination against Roma or other ethnic or culturally diverse groups.

Activities have mainly targeted jurists, law enforcement officials, workers at public and private social entities and university students. Through these actions we continue to drive one of our work objectives; raise the awareness of key players in the fight against discrimination as to the reality of our diverse society and existing regulations, and to involve the various key professionals in this field.

The Area of Equality has organised and developed the following training initiatives:

- Conference on "Equal treatment and non-discrimination on the basis of ethnic or cultural background. Approach to new realities", held on 23 November 2011, targeting law enforcement officials in the Region of Murcia. The event was organised in collaboration with the Secretariat of the Presidency of the Region of Murcia, the Platform for policing diversity, Unijepol, CEPAIM and the Local Police of Puertollano. This activity focused on conceptualisation and legal regulations in this area, the diverse realities of different vulnerable groups who are victims of discrimination, the instruments by which to defend their rights, the assistance methodology applied by the Equal Treatment Council's Network of Assistance Centres for Victims of Discrimination, best practices in the treatment of diversity in law enforcement and public awareness campaigns. Approximately 40 people (local and national police and social workers) attended.

- Training conference "Equal Treatment and the Roma Community" for young Roma lawyers held at the Fundación Secretariado Gitano headquarters in Madrid on 29 June 2012. The objective of this training session was to establish a collaborative group of young Roma working in the legal field, promote training in the rules of non-discrimination, and familiarise them with the equal treatment work carried out by the FSG. Ten young people from different Spanish cities attended the conference.

Additionally, the FSG's Area of Equality participated in the following training activities through which it distributed information on equal treatment and the Roma community:

- Speakers at the "Training Course: criminal intervention in cases of discrimination" at the Centre for Legal Studies in Madrid on 7 October 2011 attended by approximately 25 prosecutors from all of Spain.
- Speakers at the Final Conference of the GESDI Project (Managing Diversity in the workplace), organised by OBERAXE in Madrid, 17 November 2011. The conference was attended by 40 professionals from the business sector, social organisations, public administration, etc.
- Speakers at two courses organised by the Federation of Roma Associations "Kamira" on Equality and non-discrimination. The first was held on 22 November 2011 in Zaragoza and was attended by 25 experts from various Roma associations. The second took place at the Cordoba Bar Association on 13 December 2011 and was attended by 20 professionals (lawyers, national police and social workers).
- Speakers at the conference "Hate crimes and discrimination, a multidisciplinary debate" held at the



Barcelona School of Law on 16 December 2011. Approximately 60 people from legal and academic circles attended.

- Educational round-table discussion "Open School, Enriching Neighbourhoods" held on 29 February 2012 at the Pilarica Civic Centre in Valladolid where we addressed discrimination in education. Conference organised by the Pajarillos Network of Associations and Institutions. Attended by 120 people (mostly people working in education, Roma associations and Roma youth).
- Speakers at the Valladolid Law Faculty on 1 March 2012. Morning session on the situation of discrimination in the Roma community where we presented the 2011 report on discrimination and Roma community. 70 students attended.
- Speakers at the Faculty of Sociology at the University Carlos III. Madrid Morning session on discrimination and the Roma community held on 11 April 2012. The session focused on the contextualisation of discrimination against the Roma community in Spain and the FSG's methodology to combat it. 40 students attended.
- Classroom session on assistance in cases of discrimination held at the Public University of Navarre (Pamplona) on 1 June 2012. This activity was part of the Specialist Course on social work with the Roma community run by the Public University of Navarre and the FSG. 27 students attended.
- Speakers at the Pilnet forum "European Pro Bono" held in Madrid on 25 October 2012 in which the FSG participated in a panel on strategic litigation in the field of anti-discrimination to explain the defence used in the *María Luisa Muñoz v. Spain* case brought before the European Court of Human Rights.
- Lecture-discussion on the occasion of International Human Rights Day organised on 11 December 2012 by the Department of Human Rights of the Social Policy Institute (IPES) in Pamplona, to address equality and non-discrimination of Roma women. 40 people attended.

Attendance at several advanced training sessions on discrimination in Europe:

- Legal Seminar organised by Equinet "Equinet Legal Training" on 27 and 28 March 2011 in Brussels. The seminar examined International Court of Human Rights case law in the field of non-discrimination. The FSG attended as coordinator of the group

assisting victims of discrimination of the Council for the advancement of equal treatment based on racial or ethnic origin.

- Participation of the FSG as coordinator of the group assisting victims of discrimination of the Council for Equal Treatment in the seminar organised by Equinet "Legal Training" held in Vienna on 12-13 September 2011.
- Seminar on European Anti-Discrimination Law. European Academy of Law. Trier (Germany), 26 and 27 September 2011.
- Speakers and participants at the Seminar organised by Equinet "Equinet Communication training" held in Malta on 26-27 September 2012, to present the best practices developed by the FSG as member of the Network of Victim Assistance Centres of the Council for the advancement of equal treatment and Non-Discrimination on the basis of racial or ethnic origin and the Platform for the Policing of Diversity.
- Participation in the meeting of the Advisory Group of the European Agency for Fundamental Rights of the European Union (FRA), 19 and 20 November, Vienna. FSG representatives provided the perspective of the Roma community to establish the future strategic lines of the FRA up to 2015, especially in the fight against discrimination and the implementation of European directives in this area.

II. Social awareness-raising campaign on the importance of completing secondary education.

Coinciding with the 2009 launch of the school counselling and support programme called *Promociona*, the Fundación Secretariado Gitano launched two campaigns to raise awareness in the area of education. Both received funding from the Ministry of Health, Social Services and Equality through income tax funds and the European Social Fund's Operational Programme "Fight against Discrimination".

The first campaign was entitled "When I grow up I want to be ..." and was implemented during the 2010/2011 school year and involved Roma families and primary school children. A mobile photographic studio toured 38 Spanish cities expressing the dreams of Roma children through portraits. The children were asked what they wanted to be when they grew up and were then photographed posing as that person. Children and parents were then given the photograph. 3,000 families



took part in this activity. This campaign was mentioned twice as a best practice in Europe and received both national and international media coverage. It was presented at 20 public events in different Spanish cities. For further information see: www.demayorquieroser.org

In the 2012/2013 school year the FSG took another step forward targeting Roma adolescents aged 12 to 16 with awareness-raising initiatives all emphasising the same message: if you want a better future, you must finish secondary school. In the Autumn of 2012 the FSG launched an initial action under the slogan "Educated Roma, Roma with future", a casting involving 180 children from 13 cities. We selected 70 of those children

who were to become the faces of the campaign. Posters were printed with their pictures and captions about their future dreams associated with the commitment to finish high school. 3,800 posters were produced. The children were then met with the pleasant surprise of seeing these posters hanging in their schools and neighbourhoods which served to raise awareness and sensitise those around them, other adolescents and their families, of the importance of finishing school. These children became role models for the rest. This campaign was presented at a public nation-wide event and also had a significant impact in the media and social networks. For further information see: www.gitanosconestudios.org





**Annex:
Legislation in force**



Annex: Legislation in force

National

- [Law 19/2007](#) of 11 July 2007 against violence, racism, xenophobia and intolerance in sports.
- [Organic Law 3/2007](#) of 22 March safeguarding effective equality between women and men.
- [Law 62/2003](#) of 30 December 2003 on fiscal, administrative and social order measures. Chapter III. "Measures for the enforcement of the equal treatment principle".
- [Legislative Royal Decree 5/2000](#) of 4 August 2000 establishing the consolidated text of the Law on social order infractions and penalties.
- [Organic Law 10/1995](#) of 23 November 1995 on the Criminal Code.
- [Instrument of ratification of the Convention on the Rights of persons with disabilities](#) done at New York on 13 December 2006, ratified by Spain on 23 November 2007. Official State Gazette (BOE) No 96 of 21 April 2008.
- [Instrument of ratification of Protocol No 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms](#) (No 177 of the Council of Europe) done at Rome on 4 November 2000. Official State Gazette (BOE) No 64 of 14 March 2008.
- [Instrument of ratification of the Framework Convention for the Protection of National Minorities](#) (number 157 of the Council of Europe) done at Strasbourg on 1 February 1995. Official State Gazette (BOE) No 20 of 23 January 1998.
- [Organic Law 4/2000](#) of 11 January on the rights and freedoms of aliens in Spain and their social integration.

European

- [Directive 2006/54/EC of the European Parliament and of the Council](#) of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast).
- [Council Directive 2004/113/EC](#) of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services.
- [Council Directive 2000/78/EC](#) of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.
- [Council Directive 2000/43/EC](#) of 29 June implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.
- [Charter of Fundamental Rights of the European Union](#). OJEC C, 364/1 of 18 December 2000.
- [Resolution of 05 April 1999 of the Technical Secretariat-General making the merged texts of the of the European Convention for the Protection of Human Rights and Fundamental Freedoms](#) done at Rome on 4 November 1950 public; the additional protocol to the Convention, done at Paris on 20 March 1952 and Protocol No 6 abolishing the death penalty done at Strasbourg on 28 April 1983.
- [Directive 2012/29/EU of the European Parliament and of the Council](#) of 25 October 2012 laying down minimum standards on the rights, support and protection of victims of crime, replacing Council Framework Decision 2001/220/JHA.

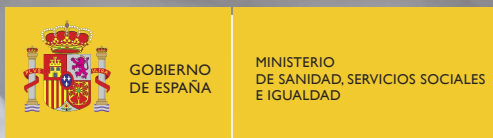


International

- [The Universal Declaration of Human Rights](#) adopted by the General Assembly in Resolution 217 A (III) of 10 December 1948.
- [International Covenant on Economic, Social and Cultural Rights](#) adopted and open for signing, ratification and accession by the General Assembly through Resolution 2200 A (XXI) of 16 December 1966.
- [International Covenant on Civil and Political Rights](#) adopted and open for signing, ratification and accession by the General Assembly through Resolution 2200 A (XXI) of 16 December 1966.
- [Discretionary Protocol of the International Covenant on Civil and Political Rights](#) adopted and open for signing, ratification and accession by the General Assembly through Resolution 2200 A (XXI) of 16 December 1966.
- [Second Discretionary Protocol of the International Covenant on Civil and Political Rights](#) to abolish the death penalty adopted and open for signing, ratification and accession by the General Assembly through Resolution 44/128 of 15 December 1989.
- [International Convention on the Elimination of all Forms of Racial Discrimination](#) adopted and open for signing, ratification and accession by the General Assembly through Resolution 2106 A (XX) of 21 December 1965 CERD.
- [International Covenant on Civil and Political Rights](#) adopted and open for signing, ratification and accession by the General Assembly through Resolution 2200 A (XXI) of 16 December 1966 HRC.
- [International Covenant on Economic, Social and Cultural Rights](#) adopted and open for signing, ratification and accession by the General Assembly through Resolution 2200 A (XXI) of 16 December 1966 CESCR.
- [Convention on the Elimination of all Forms of Discrimination against Women](#) adopted and open for signing, ratification and accession by the General Assembly through Resolution 34/180 of 18 December 1979 (CEDAW).
- [International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families](#) adopted by the General Assembly through Resolution 45/158 of 18 December 1990 ICRMW.
- [Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities](#), passed by the General Assembly through Resolution 47/135 of 18 December 1992.
- [Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value](#), adopted on 29 June 1951 by the General Conference of the International Labour Organisation at its 34th meeting.
- [Convention concerning Discrimination in Respect of Employment and Occupation](#), adopted on 25 June 1958 by the General Conference of the International Labour Organisation at its 42nd meeting.
- [International Convention on the Elimination of all Forms of Racial Discrimination](#) adopted and open for signing and ratification by the General Assembly through Resolution 2106 A (XX) of 21 December 1965.
- [Declaration on Race and Racial Prejudice](#), approved by the General Conference of the United Nations Educational, Scientific and Cultural Organisation on 27 November 1978.
- [Convention against discrimination in education](#), adopted on 14 December 1960 by the General Conference of the United Nations Educational, Scientific and Cultural Organisation
- [Protocol Instituting a Conciliation and Good offices Commission to be Responsible for Seeking the settlement of any Disputes which may Arise between States Parties to the Convention against Discrimination in Education](#).
- World Conference against Racism, 2001 (Declaration of Programme of Action).
- [Declaration on the human rights of individuals who are not nationals of the country in which they live](#), adopted by the General Assembly through Resolution 40/144 of 13 December 1985.



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Collaboration:

